

1 Hon. Cecily Bond (Ret.)  
2 JAMS  
3 2520 Venture Oaks Drive  
4 Suite 400  
5 Sacramento, CA 95833  
6 Tel: (916) 921-5300  
7 Fax: (916) 565-7780  
8 ARBITRATOR

9 JAMS BINDING ARBITRATION

10 GOOCH, et al.,  
11 Claimants,  
12 vs.  
13 ANDERSON, et al.,  
14 Respondents.

15 **ARBITRATION AWARD**  
16 **JAMS Reference #: 1100039012**

17 Pursuant to a prior ruling on a jurisdictional question determined on December 10, 2003,  
18 this matter was set for arbitration in Jacksonville, Florida on April 16, 2004. Mr. and Mrs.  
19 Gooch were represented by William E. West, Jr. The defendant, Bruce Anderson, represented  
20 himself, pro per.

21 **Issues**

22 As the Arbitrator previously determined, the issues for this arbitration included the  
23 following:

- 24 1. Was there an enforceable agreement between the Goochs and the Andersons,  
25 entered on or about November 10, 1998, to pay one-half of the Andersons' attorney's fees in the  
26 federal copyright infringement action in exchange for "use" of any federal court judgment;
- 27 2. What were the terms of that agreement;
3. Was there breach of that agreement; and
4. If so, what are the damages, if any, resulting from the breach.

1 Discussion

2 The arbitration convened as scheduled on April 16, 2004, in Jacksonville, Florida. The  
3 following parties were sworn and testified: Steve McDonald Esq., Ray Miller, Hal Gooch and  
4 Bruce Anderson.

5 The Arbitrator has reviewed the evidence and testimony presented and the documentary  
6 testimony presented and based on the Arbitrator's evaluation of the credibility of the witnesses  
7 and the evidence now issues her interim award as set forth herein.

8 The Arbitrator reincorporates by this reference, the factual findings set forth in pages 1  
9 through 3, line 12 of the ruling on the jurisdictional question as those factual determinations set  
10 forth the circumstances under which this action arose.

11 The Arbitrator finds that on approximately November 10, 1998, in accordance with a  
12 court order to mediate the underlying federal copyright infringement case, the following parties  
13 were present in Maitland, Florida: Hal Gooch, Steve McDonald, Esq. (who then represented Hal  
14 Gooch), Ray Miller, Bruce Anderson, Donald Christopher, Esq. (who then represented Bruce  
15 Anderson) Maheel Luster and two of the attorneys for Luster. During this settlement conference  
16 various caucuses were held with the mediator as well as Luster and his attorneys.  
17 The mediator expressed the view that Luster was essentially judgment proof and if any judgment  
18 was rendered against him, he would declare bankruptcy and discharge the obligation. Therefore,  
19 the mediator suggested that the five remaining Amway (later Quixtar) defendants, the Goochs,  
20 the Andersons, the Haugens, the Foleys and the Greybills, should consider dismissing their  
21 cross-complaints against Luster that were then pending in the federal court. Anderson felt that  
22 Luster had committed fraud and he did not wish to dismiss his counter-claim. During a session  
23 in which Anderson, Christopher, Miller, Gooch and McDonald were present, Anderson made  
24 clear that he wanted to pursue Luster so that he would never defraud anyone again.

25 Anderson and the other Quixtar representatives were concerned that Luster might receive  
26 some funds from the Recording Industry Association of America ("RIAA") in exchange for the  
27 information he had supplied to them about copyright infringing work that he had done for a  
number of Quixtar distributors.

28 Christopher, on behalf of Anderson, approached McDonald and indicated that if Gooch  
29 would pay part of the attorney's fees of Anderson and Haugen to keep them from dismissing  
30 their cross-complaints in the federal copyright action, then Gooch could "use" any resulting  
31 judgment in the federal action in order to resolve the ongoing state court action which Gooch had  
32 against Luster. Gooch, for whom Luster had also worked, had filed suit against Luster in Florida  
33 state court in order to attempt to recoup some of the monies and property that allegedly had been  
34 misappropriated by Luster. However, Luster had filed a cross-complaint against Gooch alleging  
35 discrimination and other affirmative claims, including assault, battery, false imprisonment and  
36 slander. He'd also alleged that the Goochs were racist and prejudiced against him.

1  
2 None of the other Quixtar representatives had any ongoing litigation with Luster, except  
3 the cross-complaints that they had filed in the federal copyright infringement action.

4 McDonald then approached Hal Gooch and explained the proposal that had been made by  
5 Christopher that Goochs should pay part of the ongoing attorney's fees of Andersons and  
6 Haugens and then would be permitted to use any resulting federal court judgment in settlement  
7 of their state court action. Hal Gooch agreed to this arrangement and McDonald told Christopher  
8 that they agreed.

9 This arrangement was further discussed in a meeting in which Anderson, Christopher,  
10 Miller, Gooch and McDonald were present. Although Christopher was explaining the  
11 agreement, Anderson did not disagree and heard the proposal as set forth by his then attorney,  
12 Christopher. As a result of these meetings in Maitland, Florida, the Goochs agreed to pay one-  
13 half of the legal expenses of the Andersons and the Haugens in their continuing effort to obtain  
14 judgments against Luster on their cross-complaints in the federal copyright action. In addition,  
15 the Goochs continued to pay McDonald, (their attorney), to represent them on their own cross-  
16 complaint in the federal action.

17 Anderson points to the letter of November 11, 1998 from Christopher to Andersons and  
18 Haugens as showing no agreement was made with Goochs on November 10, 1998. The  
19 Arbitrator finds the letter unpersuasive.

20 Christopher sent his billing statements to McDonald who in turn submitted those  
21 statements to the Goochs. Goochs paid McDonald who had then, in turn, paid Christopher for  
22 one-half of Christopher's attorney fees he was charging Andersons to prosecute Andersons'  
23 cross-claim in Federal Court. Goochs also paid McDonald for his services in prosecuting  
24 Goochs cross-claim in the federal action.

25 The federal trial was held in April of 1999 and a jury returned verdicts in favor of the  
26 Andersons in the amount of \$135,473.06; in favor of the Haugens in the amount of \$85,539.34  
27 and in favor of the Greybills in the amount of \$29,621.61. However, the jury denied the claims  
of both the Goochs and the Foleys against Luster.

Thereafter, Luster appealed the federal judgments to the United States Court of Appeals  
for the 11<sup>th</sup> Circuit. Christopher, who was still representing the Andersons, handled the appeal  
for the Andersons. At some point during this process, McDonald noted that he had not been  
receiving bills for the 50% of Anderson's legal fees, which the Goochs had agreed to pay to  
Christopher. He brought that matter to Christopher's attention and the Goochs then received  
bills for their 50% share of Andersons' legal fees for handling the appeal, which they paid. The  
Court of Appeal ultimately affirmed the judgments against Luster. The amount of legal fees paid  
by the Goochs on behalf of Andersons' legal fees, total approximately \$60,000. There was no  
dispute about this amount at the arbitration.

1  
2 Thereafter, in August of 2000, McDonald contacted the attorneys representing Luster in  
3 the Florida state court litigation brought by the Goochs. The Goochs offered to settle the Florida  
4 state litigation by paying Luster an additional \$20,000 as well as causing the federal judgments  
5 against Luster to be marked satisfied. Greybill, who was also involved in the agreement with  
6 Goochs for the payment of part of Andersons' legal fees, immediately marked the federal  
7 judgment that he had received against Luster as satisfied.

8  
9 However, Christopher wrote to McDonald indicating that the Andersons now wanted  
10 money in addition to the legal fees that had previously been paid in order to mark the judgment  
11 against Luster satisfied. (See the letter of August 24, 2000).

12  
13 Meanwhile, the Goochs had entered into the settlement with Luster believing that they  
14 would be able to cause the federal judgments that had been issued against Luster to be marked  
15 satisfied and that with the additional payment of \$20,000 Luster's cross-complaint against the  
16 Goochs in Florida state court could be resolved. Despite several efforts to obtain Andersons'  
17 approval to issue a satisfaction of judgment on their federal judgment against Luster, the Goochs  
18 were unable to obtain their approval. At some point, the Haugens assigned their federal  
19 judgment against Luster to the Andersons.

20  
21 On about December 19, 2000, Judge Henning entered an order requiring both the Goochs  
22 and Luster to perform their respective obligations under the settlement agreement that had been  
23 reached in state court by no later than January 15, 2001. McDonald, who was still representing  
24 the Goochs, made several offers of additional compensation to the Andersons in order to obtain  
25 their approval to satisfy the federal court judgments. All of which were to no avail. Not only did  
26 Anderson want additional money, he also took the position at one time that the sums already paid  
27 by the Gooch's for legal services rendered to Anderson by Christopher would not be allowed as a  
credit.

18  
19 Thereafter, on February 27, 2001, at a hearing on a Motion for Sanctions McDonald  
20 reported to Judge Henning that due to the breach of contract by the Andersons, the Goochs were  
21 not able to comply with her order or the prior settlement agreement that the federal judgments  
22 against Luster would be marked "satisfied." As a direct result of Goochs inability to comply  
23 with this order, Judge Henning, thereafter, issued a second order in which she sanctioned the  
24 Goochs in the amount of \$221,062.40 together with accrued interest in the amount of  
25 \$19,746.31. She further indicated that this amount would bear interest at the rate of 11% until  
26 paid. The Goochs then appealed from Judge Henning's order but were required to post a bond.  
27 The Goochs posted a civil supersedes bond with the office of the clerk of the 17<sup>th</sup> Judicial  
District in Broward County, Florida, on March 13, 2002 in the amount of \$284,154.27.

25  
26 Sometime thereafter, Luster, whose legal fees were apparently being underwritten by the  
27 Andersons, proceeded to attempt to enforce the Florida sanctions order. Although the Goochs

1 battled each of these enforcement attempts they incurred additional attorneys' fees, and were  
2 unsuccessful in their attempts to prevent enforcement of the sanctions order.

3 On or about January 6, 2003, Luster formally assigned his judgment against the Goochs  
4 to Andersons. At that point, Andersons marked the federal judgment against Luster as being  
5 satisfied. The Florida District Court of Appeals, meanwhile, denied both the Goochs' appeals  
6 and the proceeds of the supersedes bond, at that time, in the amount of \$301,000, were paid over  
7 to the Andersons as Luster's assignees. Andersons were able to convert what would have been  
8 essentially a worthless judgment of no value or very little value against Luster into a judgment  
9 against Goochs, which was satisfied by the supersedes bond.

### 8 Conclusions

9 The Arbitrator finds that there was an enforceable agreement between Andersons and the  
10 Goochs. The Arbitrator further finds that there was mutuality of obligation in that the Goochs  
11 paid and continued to pay one-half of the attorneys' fees that Andersons incurred in prosecuting  
12 the federal cross-complaint and the appeal. In exchange, Andersons promised that should he be  
13 successful in obtaining a federal judgment, Gooch would have the opportunity to use that  
14 judgment to settle their state court case. The Arbitrator finds that there was consideration for this  
15 promise in that Goochs paid one-half of Andersons' legal fees not only in obtaining the federal  
16 court judgment but also one-half the fees for protecting the judgment successfully on appeal.

17 The Arbitrator finds that Christopher was in fact the agent of Anderson and that he was  
18 authorized to make the representations in the context in which they were made as to the  
19 agreement between Anderson and Gooch. The only use to which the federal court judgment later  
20 obtained by Andersons could be reasonably be anticipated at that point in time was to assist in  
21 the settlement of Goochs' state court action against Luster and the cross-complaint that Luster  
22 had brought against the Goochs. None of the other Quixtar IPO's had any actions pending  
23 against Luster except for the federal cross-complaints. The Goochs clearly accepted the offer  
24 made by Anderson and in fact performed their obligations pursuant to that agreement by paying  
25 one-half of Andersons' attorney's fees in the federal court action and the federal court appeal.  
26 The term "use" of the judgment in the context in which this agreement was made could mean  
27 nothing more than that the Goochs were entitled to require that Anderson "satisfy" the federal  
28 judgment against Luster if that was needed in order for the Goochs to settle their state court  
29 action then pending against Luster.

30 The Arbitrator further finds that the Andersons breached their agreement with the Goochs  
31 when they refused to mark the federal judgments satisfied in accordance with the prior  
32 agreement.

33 As a result of Andersons' breach of the agreement, the Goochs have suffered damages.  
34 In a breach of contract action the party who has been damaged is entitled to be compensated for  
35 all damage caused by the natural and proximate results of the breach. All damages that would  
36

1 necessarily flow from the breach, which can reasonably be said to have been contemplated by the  
 2 parties, would be the measure of damages. In this case, because the Goochs were unable to  
 3 implement the provisions of their settlement agreement with Luster in the Florida state court by  
 4 obtaining "satisfactions" of the federal judgments against Luster, they were sanctioned in an  
 5 amount of \$221,062.40 together with interest. Thereafter, as a condition of perfecting their  
 6 appeal, they were compelled to post a bond. In addition, the Goochs were required to incur  
 7 substantial legal fees and costs in the course of attempting to consummate their settlement with  
 8 Luster; trying to get Andersons to follow through on their obligation to satisfy the federal court  
 9 judgments; defending themselves against the sanctions in Broward County; prosecuting appeals  
 10 in Florida and North Carolina and resisting various enforcement actions brought by Andersons as  
 11 the assignees of Luster's judgment against the Goochs.

12 The damages, which the Goochs seek in this regard, are not attorney's fees as such but  
 13 are the natural and necessary legal fees that were incurred in order to try to avoid the  
 14 consequences of the breach of contract by Andersons. Milhonich v. First National Bank of  
 15 Miami Springs Florida District App. (1969) 224 Southern.2<sup>nd</sup> 759.

16 At the arbitration hearing, McDonald testified as did Gooch and Miller without challenge  
 17 that the following amounts were paid in order to avoid the consequences of Andersons' breach:

18	1. The forfeit of the appellate bond	\$301,000
19	2. Attorneys' fees incurred in North Carolina for the defense of enforcement of the Luster judgment, client billings from the office of William West	\$96,770
20	3. Costs and expenses incurred in North Carolina, (client billings from the law offices of William E. West)	\$1,843.95
21	4. Attorneys' fees incurred in the Florida settlement defense to the enforcement of the Luster judgment, (client billing from McDonald & Crawford)	\$70,012.90
22	5. Costs and expenses incurred in Florida for the settlement and defense to enforcement of the Luster judgment, (billings from McDonald & Crawford)	\$9,488.13
23	6. A bond premium paid to Brown & Brown in 2002	\$5,512.00
24	7. A bond premium paid to Brown & Brown in 2003	\$5,512.00
25	8. Commission and fees paid to the Bank of America re standby letter of credit in 2002	\$5,078.75
26	9. Commissions and fees paid to the Bank of America re standby letter of credit in 2003	\$5,016.87
27	10. Commissions and fees paid to the Bank of America re standby letter of credit payment to the Hartford Fire Insurance Company	\$745.39
	<b>Total</b>	<b><u>\$500,979.99</u></b>

1  
2 The Arbitrator awards \$500,979.99 said sum to Goochs against Andersons.

3 Additionally, Gooch seeks attorneys' fees that are pending in Florida with respect to a  
4 forfeiture. However, that matter is still on appeal and no decision has yet been rendered. The  
5 Arbitrator finds this amount to be speculative, and therefore, does not award this amount of  
6 damages.

7 Pursuant to the Quixtar Rules and JAMS rules, the Arbitrator finds that the Goochs are  
8 the prevailing parties and that they are entitled to their reasonable attorneys' fees and costs in  
9 connection with this Arbitration. Said amounts shall be determined based on written  
10 submissions. Claimants shall file a Motion for Fees and Costs together with supporting  
11 declaration within 20 days after the date of service of this award. Said declarations shall set forth  
12 in summary the type of services performed and the total amount sought and shall not include any  
13 amounts claimed as damages as set forth herein.

14 Respondents shall have 20 days after service of Claimants' Motion to file their opposition  
15 and/or Motion to Tax Costs. Claimants shall have 15 days to reply to any opposition. The  
16 matter shall then be submitted and the Arbitrator shall determine what fees and costs, if any,  
17 shall be awarded.

18 The Arbitrator retains jurisdiction to determine said fees and costs, if any.

19 Dated: May, 10, 2004

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\_\_\_\_\_  
Hon. Cecily Bond (Ret.)

HAL GOOCH and SUSAN GOOCH, )  
 )  
 Claimants, )  
 )  
 vs. )  
 )  
 BRUCE ANDERSON and )  
 WENDYANDERSON, )  
 )  
 Respondents. )

JAMS Case No. 1100039012

**ORDER IMPOSING SANCTIONS**

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Pursuant to the request of Claimants that an order be entered against Respondents sanctioning them for failing to comply with the lawful orders entered in this proceeding:

The Undersigned Arbitrator having considered the evidence in this proceeding and the file herein makes the following:

**FINDINGS OF FACT**

1. On December 10, 2003, upon consideration of the parties' submissions, the Undersigned Arbitrator entered a ruling that the parties' dispute arose from litigation involving the business of Quixtar; that the parties were each the intended third party beneficiaries of the other's IBO agreements; and that the parties were obligated to utilize the Quixtar ADR process, including arbitration, to resolve any claims against each other.

2. On March 13, 2002, the Claimants posted a bond in the amount of \$284,154.27 in The Office of the Clerk of the Seventeenth Judicial Circuit in Broward County, Florida.

3. At a hearing conducted in Broward County District Court on June 23, 2003, Respondent Bruce Anderson testified that, in the event that the court allowed him to execute upon the Claimant's bond, he would not spend any of the funds in question pending completion of the arbitration.

4. Ultimately, Respondents Anderson were allowed to levy and execute upon the Florida bond and they collected a sum in excess of \$301,000.00.

5. In a letter dated December 30, 2003, counsel for the Claimants took the position that the foregoing sum could be considered part of the *res* reflecting the damages that the Claimants have suffered due to the Respondents' alleged breach of contract, exclusive of any fees and costs they have incurred. For that reason, counsel for the Claimants requested that this sum be sequestered and placed in an interest bearing account pending the conclusion of this proceeding.

6. During a telephone conference with the Undersigned Arbitrator and counsel for the Claimants on January 21, 2004, Respondent Bruce Anderson explicitly stated that none of the money was left and that all of it had been spent. Thereupon, counsel for Claimants agreed with the Undersigned Arbitrator that his request appeared to be moot.

7. In a deposition conducted on February 23, 2004, approximately 30 days after the telephone conference, Respondent Bruce Anderson testified under oath that he then held approximately \$180,000.00 from the amount he obtained from the seizure of the Florida bond.

8. In response to a letter from counsel for Claimants dated March 30, 2004, the Undersigned Arbitrator ordered Respondents Anderson to deposit the remaining funds in an interest bearing account in a recognized bank or savings and loan pending disposition of this arbitration proceeding. Furthermore, the Andersons were ordered to provide counsel for Claimants with proof of the deposit.

9. When this proceeding came on for hearing before the Undersigned Arbitrator on April 16, 2004 in Jacksonville, Florida, Respondent Bruce Anderson admitted that he had not

complied with the order of March 31, 2004. Thereupon, the Undersigned Arbitrator reiterated the obligation of Respondents Anderson to comply with the order of March 31, 2004 and allowed an additional seven days within which to comply with its terms and further ordered that proof of deposit be supplied to counsel for Claimant and the Arbitrator.

10. Counsel for Claimants has informed the Case Administrator herein that he has had no contact from Respondents Anderson since the hearing of April 16, 2004, and that he has been informed that Respondents Anderson have been away from their home.

11. No evidence has been presented to counsel for Claimants or the Undersigned Arbitrator that Respondents Anderson have complied with the order of March 31, 2004 or the extension of time allowed by the Undersigned Arbitrator on April 16, 2004.

12. Respondent Bruce Anderson has been deceitful in his conduct and his representations concerning the funds seized in Florida. Such conduct is willful and without justification.

13. At all times pertinent to the conduct of these proceedings, Bruce Anderson has been acting with full authority as the agent of his wife, Wendy Anderson, who is also a party to this arbitration. Both of the Respondents are subject to the jurisdiction of this forum.

14. Based upon the representations of Respondent Bruce Anderson under oath, Respondents Anderson have sufficient assets to comply with the orders of March 31, 2004 and April 16, 2004.

Based on the foregoing Findings of Fact, the Undersigned Arbitrator makes the following

**CONCLUSIONS OF LAW**

1. Rule 24(e) of the JAMS Comprehensive Arbitration Rules and Procedures provides

that “[T]he Arbitrator may take whatever interim measures are deemed necessary, including injunctive relief and measures for the protection or conservation of property and disposition of disposable goods.”

2. Rule 29 of the JAMS Comprehensive Arbitration Rules and Procedures provides that “[T]he Arbitrator may order appropriate sanctions for failure of a party to comply with its obligations under any of these Rules. These sanctions may include, but are not limited to, assessment of costs, exclusions of certain evidence, or in extreme cases ruling on an issue submitted to Arbitration adversely to the party who has failed to comply.”

3. Rule 11.5.39 of the Quixtar Rules of Conduct provides that “[A]t the request of any party, the Arbitrator may take whatever interim measures he or she deems necessary with respect to the dispute, including measures for the conservation of property.”

4. Rule 11.5.50 of the Quixtar Rules of Conduct is identical to the language employed in Rule 29 of the JAMS Comprehensive Arbitration Rules and Procedures by providing that “[T]he Arbitrator may order appropriate sanctions for failure of a party to comply with its obligations under any of these Rules. These sanctions may include, but are not limited to, assessment of costs, exclusions of certain evidence, or in extreme cases ruling on an issue submitted to Arbitration adversely to the party who has failed to comply.”

5. The foregoing Rules are part of the Parties’ contract herein, and such Rules are

binding upon the Parties, as well as upon the Undersigned Arbitrator, in that they are part of the submission to arbitration.

6. The foregoing Rules vest the undersigned with sufficient authority to sanction the Parties for willful disobedience of the Arbitration Rules and Procedures, as well as for willful disobedience of an order entered pursuant to such Rules.

7. The failure of Respondent Anderson to sequester the funds in question as directed by the Undersigned Arbitrator is willful and without lawful justification.

8. Based on prior statements of Respondent Anderson, the Arbitrator determines that Anderson has the means to comply with the terms of this order.

WHEREFORE, the Undersigned Arbitrator orders, adjudges, and decrees that:

1. Respondent Anderson are assessed a monetary sanction in the amount of \$5,000.00

per day, retroactive to April 23, 2004, for each day that they have not complied with the order entered by the Undersigned Arbitrator on March 31, 2004;

2. Such monetary sanction shall continue to be assessed on a daily basis for each day after April 23, 2004 that Respondent Anderson fails to comply with the order entered by the Undersigned Arbitrator on March 31, 2004;

3. Claimants are entitled to an award of reasonable attorneys' fees incurred by reason

of Respondents Andersons' willful failure to abide by the order of the Undersigned Arbitrator entered on March 31, 2004; and

4. Counsel for Claimants shall submit an affidavit of expenses and attorneys' fees

incurred by the Claimants with regard to obtaining the relief provided herein by this order within seven days of its entry.

Entered this 30<sup>th</sup> day of April, 2004.

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HONORABLE CECILY BOND (RET.)  
Arbitrator



IN THE CIRCUIT COURT, FOURTH JUDICIAL CIRCUIT;  
IN AND FOR DUVAL COUNTY, FLORIDA.

CASE NO: 16-2004-CA-004945-XXXX-MA  
DIVISION: CV-A

**HAL GOOCH and  
SUSAN GOOCH,**

Plaintiffs,

vs.

**BRUCE ANDERSON and  
WENDY ANDERSON,**

Defendants.

---

**FINAL JUDGMENT AND  
ORDER CONFIRMING AWARDS IN ARBITRATION**

THIS CAUSE coming on for hearing and being heard on September 1, 2004, before the undersigned Judge of the Circuit Court of the Fourth Judicial Circuit in and for the County of Duval upon Plaintiffs' Amended Motion for Confirmation of Awards in Arbitration and for Judgment thereupon pursuant to the provisions of F.S.A. §§ 682.12; 682.15; and 682.18.

IT APPEARING to the Court that Plaintiffs are represented by William E. West, Jr., of the North Carolina Bar, who has been admitted *pro hac vice* by Order of this Court; and that Defendants, although properly served and given notice of this hearing, failed to appear.

AND IT FURTHER APPEARING that this Court has subject-matter jurisdiction over this cause and personal jurisdiction over Defendants; and that venue has been properly laid in Duval County, Florida.

The Court, after being advised in the premises, and finding that the parties entered into a written contract under the terms of which they agreed to submit to arbitration any controversy arising between them relating to such contract; that a controversy arose between the parties relating to such contract; that the controversy was submitted to arbitration in due fashion; that a Final Arbitration Award was made by the arbitrator appointed to hear the matter; that no basis for vacating, modifying, or correcting such awards has been substantiated by Defendants under F.S.A. §§ 682.13 and 682.14 (Defendants' letter suggesting impartiality of the arbitrator is insufficient); and that the Final Arbitration Award ought to be confirmed and reduced to judgment.

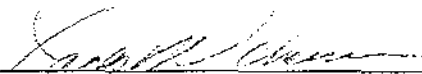
IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED:

1. That the Final Arbitration Award entered against Defendants on June 18, 2004, is confirmed as provided by F.S.A. § 682.12.

2. As to awards in prior Orders made by the Arbitrator on April 30, 2004, and May 7, 2004, but not incorporated in the Final Arbitration Award, the Court reserves jurisdiction to confirm same upon proof that said awards were intended to be included in the Final Arbitration Award.

3. Plaintiffs, Hal Gooch and Susan Gooch recover from Defendants, Bruce Anderson and Wendy Anderson, jointly and severally, the sum of \$500,979.99, and the sum of \$123,635.90, for attorney's fees and costs incurred in said arbitration, that shall bear interest at the rate of seven percent (7%) a year, for which let execution issue.

**ORDERED** at Jacksonville, Florida, on the 8th day of October, 2004.

  
\_\_\_\_\_  
HONORABLE JACK M. SCHEMER  
CIRCUIT COURT JUDGE  
FOURTH JUDICIAL CIRCUIT

Copies to:

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Attorney for Plaintiffs *pro hac vice*

Bruce Anderson & Wendy Anderson  
11211 Portside Drive  
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(616) 454-8300

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October 19, 2004

Bruce and Wendy Anderson  
11211 Portside Drive  
Jacksonville, FL 32225-1516

RE: Kent County Circuit Court Case No. 04-05849-CZ  
Our File No. 2572-01

Dear Mr. and Mrs. Anderson:

I enclose with this correspondence the Default Entry and Judgment, entered by the Kent County Circuit Court on October 18, 2004 regarding the above-referenced matter.

Yours very truly,

DREW COOPER & ANDING

Carla Jo Compton  
Legal Administrative Assistant

Enclosure

cc w/enc: William West

I:\CJ\2572\DEF LTR

\$ 624,615.89    \$                    \$ 225.00                    \$                    \$ 624,840.89    \*Attach bill of costs

- 3. The defaulted party is not an infant or incompetent person.
- 4. The defaulted party  is not in the military service.  is in the military service but there has been notice of the pendency of the action and adequate time and opportunity to appear and defend.
- 5. The claim  is  is not based on a note or other written evidence of indebtedness (if so, evidence is attached for filing and cancellation by clerk).

Applicant/Attorney signature: C.G. HASTINGS P40861  
Bar no.

Subscribed and sworn to before me on 10/13/2004 , KENT County, Michigan.  
Date

My commission expires: 09/29/2005 Signature:   
Date Deputy court clerk/Notary public CARLA JO COMPTON

**DEFAULT ENTRY AND JUDGMENT**

The default of the party named above for failure to appear is entered.

For: PLAINTIFFS HAL & SUSAN GOOCH Against: DEFENDANTS BRUCE & WENDY ANDERSON

A note or other written evidence of indebtedness has been filed for cancellation.

**IT IS ORDERED** that this judgment is granted. This judgment will earn interest at applicable statutory rates.

10-18-04 **JENNIS C. KOLENDA**  
Date Court clerk/Judge

Judgment has been entered and will be final unless within 21 days of default judgment date a motion to set aside default is filed.

**CERTIFICATE OF MAILING**

I certify that a copy of this judgment was served on the other party(ies) or their attorney(s) by ordinary mail at the above address(es).



December 3, 2004

**VIA U.S. MAIL**

Bruce and Wendy Anderson  
11211 Portside Drive  
Jacksonville FL 32225-1516

**Re: Request for Garnishment served on Quixtar Inc.  
Hal and Susan Gooch v. Bruce and Wendy Anderson  
Kent Co. Circuit Court Case #04-05849-CZ**

Dear Bruce and Wendy:

The Corporation received on December 2, 2004 a Request and Writ for Periodic Garnishment attaching all monies payable to you for 91 days. Please find enclosed a copy of the Garnishment.

The Corporation has a legal obligation to comply with the Garnishment and begin paying a portion of your monthly bonuses over to the plaintiff's attorney listed therein, unless you file objections with the court within 14 days after this is mailed to you.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Shawn D. Hamacher".

Shawn D. Hamacher

Corporate Counsel

Direct Phone Number: 616.787.7665

Direct Fax Number: 616.787.7699

*shawn.hamacher@quixtar.com*

SDH/pt  
Enclosure

Approved, SCAO

Legal Software Inc.  
(586) 294-4800

Original - Court  
1st copy - Plaintiff  
2nd copy - Garnishee  
3rd copy - Defendant

STATE OF MICHIGAN  
JUDICIAL DISTRICT  
17TH JUDICIAL CIRCUIT

GARNISHEE DISCLOSURE

CASE NO.  
04-05849-CZ

Court Address  
180 OTTAWA AVENUE NW, SUITE 2400, GRAND RAPIDS, MI 49503

Court telephone no.  
616-632-5480

Plaintiff's name and address  
HAL and SUSAN GOOCH

Defendant's name, address, soc. sec. no. or employee ID no.  
BRUCE and WENDY ANDERSON  
11211 PORTSIDE DRIVE  
JACKSONVILLE FL 32225-1516

V

Plaintiff's attorney, bar no., address, and telephone no.  
CHRISTOPHER G. HASTINGS (P40861)  
125 OTTAWA AVENUE NW, SUITE 300  
GRAND RAPIDS MI 49503 (616) 454-8300

Garnishee's name and address  
QUIXTAR  
5101 SPAULDING PLAZA SE  
ADA MI 49301

SEE INSTRUCTIONS ON OTHER SIDE

- 1. This disclosure is for a writ of garnishment issued on 12/02/2004 and received by garnishee on 12/02/2004.
  - a. The garnishee mailed or delivered a copy of the writ of garnishment to the defendant on 12.3.04.
  - b. The garnishee was unable to mail or deliver a copy of the writ of garnishment to the defendant.

2. At the time of service of the writ, garnishee:

Non-Periodic Garnishments

- a. is not indebted to defendant for any amount and does not possess or control defendant's property, money, etc.  
Reason: \_\_\_\_\_
- b. is indebted to defendant for non-periodic payments as follows: \_\_\_\_\_

Description of property, money, negotiable instruments, etc. under garnishee's control      Type of account and account number if applicable  
The amount to be withheld is \$ \_\_\_\_\_ and does not exceed the amount stated in item 2. of the writ.

Periodic Garnishments

- c. is not obligated to make periodic payments to the defendant during the 91 day period.  
Reason:  not employed.  other \_\_\_\_\_

- d. is obligated to make periodic payments to the defendant during the 91 day period as follows:

Payments are for  earnings  non-earnings \_\_\_\_\_

Payments are made  weekly.  bi-weekly.  semi-monthly.  monthly.  other: \_\_\_\_\_

A higher priority writ/order  is  is not currently in effect. (If a higher priority writ/order is in effect, complete the following)

Name of court that issued higher priority writ/order	Case number	Date issued	Date served
Withholding under this writ			
<input checked="" type="checkbox"/> will begin immediately if sufficient funds are available.			
<input type="checkbox"/> will not begin immediately because defendant <input type="checkbox"/> laid off. <input type="checkbox"/> sick. <input type="checkbox"/> on leave. <input type="checkbox"/> other _____			

specify

I declare that the statements above are true to the best of my information, knowledge and belief.

12.3.04  
Date

[Signature] A56604  
Garnishee/Agent/Attorney signature

I certify that:

- I mailed or personally delivered a copy of this disclosure with the court.
- I mailed or personally delivered a copy of this disclosure to the plaintiff/attorney.
- I mailed or personally delivered a copy of this disclosure to the defendant.

12.3.04  
Date

[Signature] A56604  
Garnishee/Agent/Attorney signature

**DO NOT include Your Payment With This Disclosure. See item 3. of the instructions for details.**

## PERIODIC GARNISHMENTS

### Definitions

Periodic Garnishment - garnishment of periodic payments which include, but are not limited to, wages, salary, commissions, bonuses, and other income paid to the defendant during the period of the writ; land contract payments; rent; and other periodic debt or contract payments.

### Additional Instructions for the Plaintiff:

You must provide information that will permit the garnishee to identify the defendant such as the defendant's address, social security number, employee identification number, etc.

### Additional Instructions for the Defendant:

1. This writ has been issued because there is a judgment against you which you have not paid. In order to collect on this judgment, income due to you may be garnished.
2. You may object to this garnishment if:
  - a. Your income is exempt from garnishment by law.
  - b. You have a pending bankruptcy proceeding;
  - c. The maximum withheld exceeds the amount allowed by law;
  - d. You have an installment payment order;
  - e. You have paid the judgment in full;
  - f. The garnishment was not properly issued or is otherwise invalid.
3. Certain income is exempt from garnishment and the law gives you the right to claim this income as exempt to prevent it from being used to collect on this judgment. The following are examples of some types of income that are exempt from garnishment and the citations where each type may be found in the law. This is not intended as a complete list. You may want to contact your lawyer or legal aid agency for further assistance.

### EXAMPLES OF INCOME EXEMPT FROM GARNISHMENT

The following are examples of some of the types of income that are exempt from garnishment and the citations where each type may be found in the law. Please note that this is not intended as a complete list. You may want to contact your lawyer or legal aid agency for further assistance.

- Individual Retirement Account (IRA) - [MCL 600.6023(a)(11)]
- Social Security Benefits - [42 USC, Section 407]
- Supplemental Security Income Benefits (SSI) - [42 USC, Section 1383(d)]
- Aid to Families with Dependent Children (AFDC) - [MCL 400.63]
- General Assistance Benefits (GA) - [MCL 400.63]
- Unemployment Compensation Benefits - [MCL 421.30]
- Veterans Assistance Benefits - [38 USC, Section 3101]
- Workers' Compensation Benefits - [MCL 418.821]
- The first \$500.00 on deposit in a savings and loan savings account - [MCL491.628]
- Cash value or proceeds of life insurance or annuity, payable to the spouse or children of the insured - [MCL 500.2207(1)]
- Income benefits under the Michigan Civil Service Act - [MCL 38.40]
- Income benefits under the Michigan Retirement Act - [MCL 421.30]
- U.S. Civil Service Retirement Benefits - [5 USC, Section 8346]