

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO

JAMES R. ZAZZALI, as Trustee for the  
DBSI Estate Litigation Trust and as  
Trustee for the DBSI Private Actions  
Trust,

Plaintiff,

v.

DOUGLAS L. SWENSON; CHARLES  
HASSARD; JOHN M. MAYERON;  
WALTER E. MOTT; FARRELL  
BENNETT; JOHN D. FOSTER;  
THOMAS VAR REEVE; GARY  
BRINGHURST; JEREMY SWENSON;  
DAVID SWENSON; MICK &  
ASSOCIATES PC LLO, BRYAN S.  
MICK; JOHN DOE 1-50; and XYZ  
CORPORATION 1-50,

Defendants.

Case No. 1:12-CV-224-S-MJP

**AMENDED ORDER ON REPORT AND  
RECOMMENDATION**

This matter comes before the Court on the Report and Recommendation (R&R) of Magistrate Judge Mikel H. Williams (Dkt. No. 366) on Plaintiff's motion for summary judgment (Dkt. No. 211), the motion of Defendants' for Civil Rule 56(d) relief (Dkt. Nos. 319-21). Only Defendant Douglas Swenson filed any objections to the R&R. (Dkt. No. 389). Having reviewed the R&R, the objections, the response, and all related papers, the Court incorporates and adopts the R&R but modifies it as follows:

1. Plaintiff's motion for summary judgment (Dkt. No. 211) is GRANTED in Part and DENIED in part. The Court GRANTS summary judgment to Plaintiff as to the

**Order- 1**

issue of Defendants' personal liability. The Court however DENIES the motion as to the amount Defendants are personally liable. While the record before the Court shows the Defendants may be liable up to \$196,689,254 (one hundred ninety-six million six hundred eighty-nine thousand two hundred fifty-four dollars), the amount for any offset or credit properly attributed to the assets held in the Liquidating Trust is unknown.

2. Because outstanding issues of fact exist as to the offset or other credits, the Court GRANTS Defendant Mayeron's motion for conditional Rule 56(d) relief (Dkt. No. 319-20) so that Defendants may retain experts and depose Paul Judge in accordance with the Court's scheduling order.

The clerk is ordered to provide copies of this order to all counsel.

Dated November 27, 2013.



Chief United States District Judge for the  
Western District of Washington  
Sitting by Special Designation