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No. 5237

Filed September 10, 1980

*2:08 P.M.
C. S. Clark*

IN THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF
NEVADA, IN AND FOR THE COUNTY OF LINCOLN

LUCILE G. DEAN,)
)
Plaintiff,)
)
-vs-)
)
CITY OF CALIENTE, a special)
charter city of the State of)
Nevada, KEITH LARSEN, Mayor of)
said City, PAUL GLOECKNER,)
GEORGE T. ROWE, PATRICIA LEVERI,)
OLDEN BOSH, Council persons of)
said City, CHARLES LEWIS, Housing)
Inspector of said City, HAROLD)
THOMPSON, MRS. BEER, members of)
Planning Commission of said City)
INEZ THOMAS, City Clerk, five)
other unknown personnel of said)
City,)
)
Defendants.)

ORDER GRANTING A MOTION TO
DISCHARGE CLAIM OF COMMON
LAW LIEN AT LAW

SEVENTH JUDICIAL COURT
WHITE PINE AND LINCOLN COUNTIES
STATE OF NEVADA



Plaintiff herein attempts to claim a common law lien by Writ of Attachment on the several Defendants above. She seeks to hold various assets (checking, savings, stocks, bonds, and/or safety deposits) of said Defendants as security for a Fifty Thousand Dollar (\$50,000.00) lien on a parcel of property containing a certain residence purchased by her which was apparently already condemned by the City of Caliente.

Plaintiff totally misconstrues the application of a common law lien. Such a lien arises by implication of law and not by express contract. BARBRE-ASKEW FINANCE, INC. v. THOMPSON, 247 N.C. 143, 100 S.E.2d 381 (1957). Such liens apply exclusively to personalty and not real property as here involved.

SEVENTH JUDICIAL COURT
WHITE PINE AND LINCOLN COUNTIES
STATE OF NEVADA

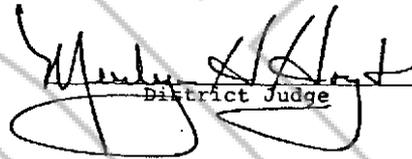


1 J. T. EVANS CO. v. FANELLI, 59 N.J. Super. 19, 157 A.2d 36
 2 (1959). Further, a common law lien cannot be used to reach the
 3 personal assets of an alleged debtor even where the Court to
 4 find a creditor/debtor relationship between Plaintiff and Defen-
 5 dants. CLARK v. MANUFACTURERS TRUCK CO. (C.A. 2 N.Y.), 169 F.2d
 6 932 (1948). The statutory provisions of N.R.S. 108 et. al. do
 7 not codify or recognize such a common law remedy, e.g. mechanics'
 8 liens are long recognized at common law and regularly codified by
 9 statute.

10 Good cause appearing, therefor;

11 IT IS HEREBY ORDERED that Plaintiff's common law
12 lien and Writ of Attachment are hereby discharged.

13 DATED this 9th day of September, 1980.

14 
 15 District Judge

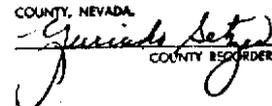
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24 The document to which this certificate is attached is a full, true
25 and correct copy of the original, on file and of record in
the County Clerk's Office, Pioche, Nevada.

26 In Witness Whereof, I have hereunto set my hand and affixed the
27 Seal of the Seventh Judicial District Court in and for the County
of Lincoln, State of Nevada, this 15 day of September, 1980

28 
29 Clerk

30 Deputy Clerk

31
32 -2nd and last-

No. 69766
 FILED AND RECORDED AT REQUEST OF
CITY OF CALIENTE
 BY N. THOMPSON
Sept 15 1980
 AT 1 MINUTES PAST 2 O'CLOCK
P.M. IN BOOK 39 OF OFFICIAL
 RECORDS, PAGE 431 LINCOLN
 COUNTY, NEVADA.

 COUNTY RECORDER