

COPY

1 No. CC2-86

MEADOW VALLEY TOWNSHIP  
JUSTICE COURT  
PIECHE, NEVADA  
FILED 11-18-86  
CASE CC2-86  
BY Donald R. Hether  
JUSTICE OF THE PEACE

2  
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4  
5  
6 IN THE JUSTICE COURT OF MEADOW VALLEY TOWNSHIP,  
7 COUNTY OF LINCOLN, STATE OF NEVADA

8 \* \* \* \* \*

9 JUNE COX PETE, )  
10 Plaintiff, )  
11 -vs- )  
12 ALFRED H. LOUCHARD and )  
13 LORRELL G. LOUCHARD, )  
14 Defendants. )

FINDINGS OF FACT, CONCLUSIONS  
OF LAW AND JUDGMENT

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15 A trial in the above-entitled matter having come on  
16 regularly to be heard before this Court of the 10th day of  
17 November, 1986, the Plaintiff being present in Court and being  
18 represented by and through her attorney, GARY D. FAIRMAN, ESQ., a  
19 Professional Corporation, and the Defendant ALFRED H. LOUCHARD  
20 being present in Court and not being represented by an attorney  
21 or anyone else on Defendants' behalf; the Court received both  
22 oral testimony and documentary evidence and as a result thereof,  
23 finds the facts as follows:

24 That sometime prior to October 12, 1979, Plaintiff and  
25 Defendants entered into negotiations whereunder Defendants  
26 desired to purchase from plaintiff a ten (10) acre parcel of real

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1 property located in Lincoln County, State of Nevada, for the sum  
2 of Ten Thousand Dollars (\$10,000.00). At Defendant's request,  
3 the sale of the real property was divided into two (2) parcels  
4 for two separate amounts. One parcel, originally thought by the  
5 parties to be two (2) acres, was sold for the sum of Two Thousand  
6 Dollars (\$2,000.00) and the other parcel, approximately eight (8)  
7 acres, was sold for the sum of Eight Thousand Dollars  
8 (\$8,000.00). The Defendants requested this transaction be  
9 divided into two separate agreements so that they could pay off  
10 the two acre parcel at an earlier time and obtain financing to  
11 build a home on the parcel.

12 The Court further finds that the parties to the  
13 agreement paced off the distances on the real property and both  
14 parties agreed on the legal description for the real property.  
15 There was no accurate survey done on the real property to derive  
16 the legal descriptions. The Court further finds that a dispute  
17 arose between the parties concerning whether or not Plaintiff  
18 owned approximately three-tenths (3/10) of an acre of real  
19 property that was attached to the original two (2) acre parcel.  
20 To resolve the questionable status of ownership of the real  
21 property, the dispute was resolved to reduce the purchase price  
22 from Two Thousand Dollars (\$2,000.00) to One Thousand Seven  
23 Hundred Dollars (\$1,700.00) and delete the questioned parcel from  
24 the transaction.

25 The Court further finds that after the transaction  
26 between the parties concerning the purchase of the real property,

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1 that Plaintiff became aware that the parties were legally  
2 mandated to provide a parcel map with a legal survey to the  
3 Lincoln County Planning Commission and thereafter to the County  
4 Commission of Lincoln County. In order to comply with the law,  
5 Plaintiff had an appropriate legal survey encompassing the total  
6 ten (10) acres of real property as originally paced on foot by  
7 the parties. This legal survey was incorporated into an  
8 appropriate map of the area and the parcel split was approved by  
9 the Lincoln County Planning Commission and the Lincoln County  
10 Commissioners. Thereafter said map showing the transfer of the  
11 entire ten (10) acres of real property from Plaintiff to  
12 Defendants was recorded as provided by law in the office of the  
13 Lincoln County Recorder, Lincoln County, State of Nevada.  
14 Plaintiff thereafter obtained a Correction Deed for the real  
15 property from the owners where she had originally obtained title,  
16 and recorded said Correction Deed in the Office of the Lincoln  
17 County Recorder. Plaintiff has been ready and willing to convey  
18 that the original disputed parcel which she did own to  
19 Defendants.

20 The Court further finds that subsequent to the real  
21 property transactions entered into by the parties during October,  
22 1979, the parties entered into a separate agreement whereby  
23 Plaintiff agreed to gravel a roadway for the use of Defendants  
24 whereunder Defendants agreed to pay the sum of Twenty Dollars  
25 (\$20.00) per load for gravel. The Court finds that Plaintiff  
26 fully performed in this capacity and did provide Thirty-five (35)

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1 loads of gravel at the agreed price of Twenty Dollars (\$20.00)  
2 per load for a total sum of Seven Hundred Dollars (700.00). The  
3 gravel was provided during the first part of March, 1981. The  
4 Court finds that Plaintiff appropriately have billed Defendants  
5 for the same and was not paid. In addition thereto, Plaintiff  
6 also submitted a bill for Three Hundred Dollars (\$300.00) for the  
7 three-tenths (3/10) of an acre of land which Defendants had the  
8 use and enjoyment of as a result of the new survey together with  
9 accrued interest thereon in the sum of Seventy Five Dollars  
10 (\$75.00). The Court further finds that there was additional land  
11 preparation and planting involved in the sum of One Hundred  
12 Dollars (\$100.00) for a total amount due and owing in the sum of  
13 One Thousand One Hundred Seventy Five Dollars (\$1,175.00). The  
14 Court finds from the evidence presented that said amount of  
15 accrued interest at the rate of 1.5% per month or a sum of 18%  
16 per annum as billed. The Court further finds that this sum was  
17 not paid by Defendants to Plaintiff and continued to accrue  
18 interest thereon.

19 The Court further finds that Defendants owed to  
20 Plaintiff the sum of Five Hundred (\$500.00) pursuant to the  
21 Promissory Note executed by Defendants on or about December 16,  
22 1979, which was admitted into evidence. The Five Hundred Dollars  
23 (\$500.00) due and owing on said Promissory Note accrued interest  
24 thereon at the rate of Twelve Percent (12%) per annum as  
25 contained in said Note for a total sum due and owing of Five  
26 Hundred Dollars (\$500.00) together with the accrued interest to

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1 date.

2 The Court finds that there is a total amount due and  
3 owing on said Promissory Note as of the end of October, 1986, in  
4 the sum of Seven Hundred Ninety Dollars and Eight Cents  
5 (\$790.08). The Court further finds that there is a total sum due  
6 and owing pursuant to the agreement between Plaintiff and  
7 Defendants for the use of the gravel and the land preparation  
8 together with the additional three-tenths (3/10) acre of land  
9 which Defendants received the benefit of although not paying for  
10 the same in the sum of \$3,186.02 as of October 31, 1986.

11 The Court further finds that Defendants failed to  
12 appropriately raise in a timely manner any Defenses as required  
13 by the Nevada Rules of Civil Procedure including any defense of  
14 Statute of Limitations for the collection of amounts due and  
15 owing.

16 In conjunction of the foregoing facts the Court  
17 specifically finds that there was an agreement for the work to be  
18 provided by Plaintiff at Defendants' specific instance and  
19 request, that said work was performed by Plaintiff, and that  
20 Defendants did not pay Plaintiff for said work as was described  
21 above.

22 The Court further finds that Defendants were unjustly  
23 enriched as a result of receiving and using an additional  
24 three-tenths (3/10) of an acre of real property and therefore  
25 should compensate Plaintiff for the same.

26 The Court further finds that Plaintiff had to engage

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1 the services of an attorney herein and that the sum of Five  
2 Hundred Dollars (\$500.00) together with costs of suit is a  
3 reasonable attorney's fee therefore.

4 From the foregoing facts, the Court concludes as a  
5 matter of law as follows:

- 6 1. That there was an agreement between Plaintiff and  
7 Defendants for the purchase of ten (10) acres of real property;
- 8 2. That Defendants have received a full ten (10) acres  
9 of real property from Plaintiff and for which they have not fully  
10 paid Plaintiff therefore;
- 11 3. That Defendants have been unjustly enriched by the  
12 receipt of three-tenths (3/10) of an acre of real property for  
13 which they have not paid Plaintiff the sum of Three Hundred  
14 Dollars (\$300.00) therefore;
- 15 4. That there was a valid oral agreement between  
16 Plaintiff and Defendants whereunder Plaintiff provided loads of  
17 gravel and land preparation for Defendants and Defendants agreed  
18 to pay to Plaintiff the sum of Twenty Dollars (\$20.00) per load  
19 and One Hundred Dollars (\$100.00) for land preparation for which  
20 Defendants have not paid Plaintiff;
- 21 5. That there was a Promissory Note executed by  
22 Defendants in favor of Plaintiffs for which there is due and  
23 owing thereunder the sum of Five Hundred Dollars (\$500.00)  
24 together with interest as provided in the Note in the sum of Twelve Percent  
25 (12%) per annum which is accrued interest from January 1, 1983, through  
26 October 31, 1986, and is still accruing interest until paid;

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1           6. That the agreement between Plaintiff and Defendants  
2 to provide work and services by Plaintiff for Defendants has not  
3 been paid and has continued to accrue interest from the date of  
4 the work at the rate of 1.5% per month or at the rate of 18% per  
5 annum and shall continue to accrue interest at that rate until  
6 fully paid;

7           7. That Defendants have not properly raised defenses  
8 in their pleadings or otherwise concerning the Statute of  
9 Limitations;

10           8. That Plaintiff has incurred a reasonable attorney's  
11 fee in the sum of Five Hundred Dollars (\$500.00) together with  
12 costs of suit;

13           9. That the Defendants have not prevailed on the  
14 burden of proof by showing that there was not an agreement for  
15 the providing of services by Plaintiff for Defendants or that  
16 they have not received the benefit and use of the real property  
17 described herein or that they had any justification for not  
18 paying Plaintiff pursuant to the Promissory Note executed by  
19 Defendants in favor of Plaintiff.

20           From the foregoing Findings of Fact and Conclusions of  
21 Law, the Court hereby enters Judgment as follows:

22           IT IS HEREBY ORDERED, ADJUDGED AND DECREED that  
23 Defendants pay to Plaintiff the sum of Five Hundred (\$500.00)  
24 together with accrued interest thereon at the rate of Twelve  
25 Percent (12%) per annum from January 1, 1983, until paid.

26           IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that

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1 Defendants pay to Plaintiff the sum of One Thousand One Hundred  
2 Seventy Five Dollars (\$1,175.00) together with interest thereon  
3 at the rate of 1.5% per month or the rate of 18% per annum from  
4 March, 1981, to the date it is paid in full.

5 IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that  
6 Defendants pay to Plaintiff the sum of Five Hundred Dollars  
7 (\$500.00) as and for attorney's fee together with costs of suit.

8 DATED this 18<sup>th</sup> day of November, 1986.

9 David K. Holtzer  
10 JUSTICE OF THE PEACE

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16 STATE OF NEVADA }  
17 COUNTY OF LINCOLN } ss

18 Jerome Stevan Justice Court Clerk of Meadow Valley Township  
19 Justice Court of the State of Nevada, in and for the County of Lincoln, do hereby certify that  
20 I have compared the foregoing with the original Findings & Fact Verdict on  
21 Greene & Wadsworth thereof, and that I am the keeper of said original,  
22 keeping same on file in my office as the legal custodian, and keeper of the same under the  
23 laws of the State of Nevada, and I further certify that the foregoing copy is a full, true and  
24 correct copy of the Findings & Fact Verdict on  
25 now on file and of record in my office. I do further certify that the same has not been  
26 altered, amended or set aside, but is still of full force and effect.

100262  
20 FILED AND RECORDED AT REQUEST OF  
21 Alfred Louchard  
22 April 7, 1993  
23 T. 10 MINUTES EAST 2. OREGON  
24 P. 105 OF OFFICE  
25 RECORDS, PAGE 458 LINCOLN  
26 COUNTY, NEVADA.  
Yuriko Setzer

27 IN WITNESS WHEREOF I have hereunto set my hand and affixed the seal of said  
28 court this 7<sup>th</sup> day of April A.D. 19 87  
29 Jerome Stevan  
30 Justice Court Clerk

31 By Lyne S. Bricker Deputy