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Case No. 33-8-94 LC

FILED  
1998 MAR 10 P 1:19  
CLERK

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

\*\*\*\*\*

DALE TOWERY, )  
Plaintiff, )  
-vs- )  
SANDRA TOWERY, )  
Defendant. )

DECISION

SEVENTH JUDICIAL DISTRICT COURT  
MERLYN H. HOYT  
DISTRICT JUDGE  
DEPARTMENT 1  
WHITE PINE, LINCOLN AND EUREKA COUNTIES  
STATE OF NEVADA



The Defendant, SANDRA TOWERY, filed a Motion to Modify the Decree on May 13, 1997, with respect to the real property (the home) located at 141 Clark Street, Caliente, Nevada. The Divorce Decree does not identify the home other than to state at Page 11, Clause "m":

"Nevada Bank and Trust, Escrow Number 97, Balance of \$33,500.00, monthly payment \$414.50 shall be divided equally between Plaintiff and Defendant in the sum of \$207.25."

The Decree makes no mention of who gets the home or the equity in the home. In accordance with LAMB vs. LAMB, 86 Nev. 908, 478 P.2d 146 (1970), the only way this could be considered by the Court now would be by stipulation of the parties. The Judgment is

SEVENTH JUDICIAL DISTRICT COURT  
MERLYN H. HOYT  
DISTRICT JUDGE  
DEPARTMENT I  
WHITE PINE, LINCOLN AND EUREKA COUNTIES  
STATE OF NEVADA



1 over six (6) months old and jurisdiction was not retained. Courts  
2 by statute retain jurisdiction over the parties, children and their  
3 needs.

4 The testimony before the Court indicated that the equity  
5 was Twelve Thousand Dollars (\$12,000.00). Each party is entitled to  
6 one-half of the equity, or Six Thousand Dollars (\$6,000.00), and the  
7 Plaintiff is entitled to a set-off of Two Thousand Six Hundred  
8 Dollars (\$2,600.00), so Defendant is actually entitled to only Three  
9 Thousand Four Hundred Dollars (\$3,400.00) as her share of the house  
10 and judgment should be entered accordingly.

11 The final issue is one of insurance. The parties tried  
12 this issue; it was not covered in the pleadings, and it is,  
13 therefore, before the Court. The Court agrees with the Defendant.  
14 The Plaintiff was required to provide insurance for twenty (20)  
15 years; he failed to do so, and the Defendant is entitled to judgment  
16 in the sum of Five Thousand Eight Hundred Fifty-Two & 35/100 Dollars  
17 (\$5,852.35), the sum that would have been paid and with that amount  
18 she can get insurance herself to protect her family. The parties  
19 shall each pay their own attorney fees and costs.

20 Good cause appearing, therefor;

21 IT IS HEREBY ORDERED that the Defendant, SANDRA TOWERY, is  
22 entitled to Judgment in the sum of Three Thousand Four Hundred  
23 Dollars (\$3,400.00), her equity in the house, and Five Thousand  
24 Eight Hundred Fifty-Two & 35/100 Dollars (\$5,852.35) compensation  
25 for insurance agreed to, but not provided.

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DATED this 9th day of March, 1998.

*Merlyn H. Hoyt*  
CHIEF DISTRICT COURT JUDGE

SEVENTH JUDICIAL DISTRICT COURT  
MERLYN H. HOYT  
DISTRICT JUDGE  
DEPARTMENT 1  
WHITE PINE, LINCOLN AND EUREKA COUNTIES  
STATE OF NEVADA



NO. **110814**

FILED AND RECORDED AT REQUEST OF  
Gary Fairman

April 8, 1998

at 30 MINUTES PAST 2 O'CLOCK

PM IN BOOK 133 OF OFFICIAL

RECORDS PAGE 582 LINCOLN

COUNTY, NEVADA.

Yuriko Setzer

COUNTY RECORDER  
by *Yuriko Setzer*  
deputy

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

In witness whereof, I have hereunto set my hand and affixed the Seal of the Seventh Judicial District Court in and for the County of Lincoln, State of Nevada, this 8th day of April 19 98.

*Merlyn H. Hoyt*  
Clerk  
*Yuriko Setzer*  
Deputy Clerk