

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF WASHOE.

JAMES T. BOYD,

Plaintiff,

Vs.

M. J. HOUGH,

Defendant.

ROBERTS MINING AND MILLING
COMPANY, a corporation,

Intervenor.

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) Filed 1934 Jul- 9 - PM 1:46
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) E. H. Beemer, Clerk,
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) By M. Cooper
) Deputy
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J U D G M E N T.

This action coming on regularly for trial before the Court without a jury, in department Number 2 of the above entitled Court on the 28th day of June, 1934, at ten o'clock A. M., the plaintiff appearing in person, and the default of the defendant, M. J. Hough having been duly and regularly entered on the 18th day of April, 1934, and no person appearing to represent the Intervenor herein, Roberts Mining and Milling Company, a corporation, the Court proceeded to hear the evidence of the plaintiff, and evidence both oral and documentary being offered and admitted in evidence, and the Court being fully advised in the premises, and the case having been submitted to the Court for its decision, and the Court having made and filed its Findings of Fact and Conclusions of Law, and it appearing therefrom to the satisfaction of the Court:

FIRST: That the Summons in said action, together with a copy of the complaint therein has been duly and regularly served upon the defendant, M. J. Hough, and that said M. J. Hough was regularly summoned to answer the plaintiff's complaint herein, and that the defendant, M. J. Hough, failed to appear or plead in said action, and the time within which said defendant, M. J. Hough could appear herein and plead having expired, and that the said M. J. Hough having made default in that behalf, the default of the defendant, M. J. Hough for not appearing and answering plaintiff's complaint has been duly and regularly entered herein.

That the Roberts Mining and Milling Company, a corporation, filed its Petition for Permission to Intervene, and the same having been granted, the said Roberts Mining and Milling Company duly and regularly filed its Amended Complaint in Intervention, and the Court proceeded to hear the plaintiff's proof as to his right to a lien, and in support of the matters set forth in his complaint, and the Court having made its Findings of Fact and Conclusions of Law, rendered its opinion and directed that Judgment and Decree be entered in favor of the plaintiff and against the defendant, M. J. Hough, as prayed for in the plaintiff's complaint, and that the Intervenor, Roberts Mining and Milling Company, take nothing by its action.

SECOND: The Court having found that plaintiff's lien was a prior and superior lien to that of the claim of the Roberts Mining and Milling Company, and a prior lien upon the claim of the defendant against the Reserve Gold Mining Company and the judgment and proceeds from such judgment duly given and made by the Third Judicial District Court of the State of Nevada, in and for the County of Eureka, No. 2264, in the case of M. J. Hough and his wife, Minnie J. Hough vs. the Reserve Gold Mining Company, and dated the 17th day of January, 1933, and the formal written judgment dated the 14th day of June, 1933, and duly filed in said cause in favor of the said M. J. Hough and against the Reserve Gold Mining Company, a corporation, in the sum of Thirty-three Thousand (\$33,000.00) Dollars, with interest thereon from the first day of March, 1926, and all costs and disbursements of the said M. J. Hough in said cause, amounting to the sum of One Hundred Forty (\$140.00) Dollars, and that in the procuring of such judgment, James T. Boyd, Sardis Summerfield, and James D. Finch were the attorneys for the said M. J. Hough, for an agreed compensation of Five Thousand (\$5000.00) Dollars, and that the said James T. Boyd and James D. Finch were the attorneys for the said M. J. Hough in the appeal from said action for an agreed compensation in the sum of Three Thousand (\$3000.00) Dollars.

THIRD: The Court having found that M. J. Hough is indebted to James T. Boyd in the sum of Five Hundred (\$500.00) Dollars upon his third cause of action.

FOURTH: The Court having found that an execution had been issued in the case of M. J. Hough and Minnie J. Hough vs. Reserve Gold Mining Company, in favor of the plaintiffs, and that the Sheriff of Eureka County, Nevada, had levied upon the Emma E. Mining Claim, situate in Cortez Mining District, County of Eureka, State of Nevada, together with the improvements thereon and appurtenances thereto, in accordance with the commands of said execution, and sold the said property to M. J. Hough, and the amount bid for the said Emma E. Mining Claim was credited upon said judgment, and that the said Emma E. Mining claim is part of the proceeds of said judgment.

FIFTH: The Court having found that there is now due, owing and unpaid from the defendant to the plaintiff the sum of Eight Thousand Five Hundred (\$8500.00) Dollars, and the sum of Twenty-Six and 90/100 (\$26.90) Dollars, costs of suit;

IT IS HEREBY ORDERED, ADJUDGED and DECREED, that the plaintiff do have and recover from the defendant, M. J. Hough, the sum of Eight Thousand Five Hundred (\$8500.00) Dollars, and the sum of Twenty-six and 90/100 (\$26.90) Dollars, costs of suit; that the sum of Eight Thousand (\$8000.00) Dollars is a valid subsisting lien upon the defendant's claim and cause of action against the Reserve Gold Mining Company, and is a valid subsisting lien upon the Emma E. Mining Claim situate in Cortez Mining District, Eureka County, Nevada, together with the improvements thereon and appurtenances thereto, and that such lien is prior to all other liens or claims against the claim of M. J. Hough against the Reserve Gold Mining Company, and the judgment granted thereon, and the Emma E. Mining Claim, and particularly is prior to the claim of the Intervenor, Roberts Mining and Milling Company, and of the claims of Katherine McCormick and Belle McCord Roberts.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all and singular the claim of M. J. Hough and the judgment thereon in favor of M. J. Hough vs. the Reserve Gold Mining Company, duly given and made in the Third Judicial District Court of the State of Nevada, in and for the County of Eureka, on the 17th day of January, 1933, and the formal written judgment dated the 14th day of June, 1933, and the Emma E. Mining Claim situate in Cortez Mining District, Eureka County, Nevada, together with the improvements thereon and appurtenances thereto, be sold at public auction, or so much thereof as may be necessary to satisfy the plaintiff's lien thereon in the sum of Eight Thousand (\$8000.00) Dollars, in the manner prescribed by law, and according to the course and practices of the Courts of this State; that the Sheriff, out of the proceeds of said sale, retain his fees and disbursements of said sale, and pay to the plaintiff out of said proceeds the sum of Eight Thousand (\$8000.00) Dollars, and Twenty-Six and 90/100 (\$26.90) Dollars, costs of this suit, and all accruing costs.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that if the money arising from said sale be insufficient to pay the amount so found due the plaintiff as above stated, with interest, costs, and expenses of sale as aforesaid, the Sheriff shall specify the amount of such deficiency and balance due the plaintiff in his return of said sale, and that on the coming in and filing of said return, the Clerk of this Court docket a judgment for such balance against the defendant, M. J. Hough, and the said defendant, M. J. Hough pay to the plaintiff the amount of such deficiency and judgment with interest thereon at the rate of seven per cent per annum from the date of the last mentioned return and judgment, and that the plaintiff have execution for such deficiency.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that the plaintiff have execution issued for the sum of Five Hundred (\$500.00) Dollars herein adjudged to be due him from the defendant, M. J. Hough, but not secured by any lien.

DONE IN OPEN COURT this 9th day of July, 1934.

B. F. Curler
District Judge.

Recorded in JUDGMENT RECORD Book A27 Pages 53-4-5
E. H. Beemer, County Clerk
B. Buchanan, Deputy Clerk

STATE OF NEVADA) ss.
COUNTY OF WASHOE)

I, E. H. BEEMER, County Clerk and ex-officio Clerk of the Second Judicial District Court of the State of Nevada, in and for Washoe County, said Court being a Court of record, having a common law jurisdiction, and a clerk and a Seal, do hereby certify that the foregoing is a full, true and correct copy of the original JUDGMENT, in case No. 45,849, Dept. No. 2, JAMES T. BOYD, Plaintiff, vs. M. J. HOUGH, Defendant, ROBERTS MINING AND MILLING COMPANY, a corporation, Intervenor, which now remains on file and on record in my office at Reno, in said county.

IN TESTIMONY WHEREOF, I HAVE HEREUNTO SET MY hand and affixed the Seal of said Court at Reno, this 10th day of July, A. D. 1934.

(SEAL OF SAID COURT)

E. H. BEEMER, Clerk

BY B. Ellsworth Deputy

Recorded at the Request of James T. Boyd July 14, A. D. 1934 At 45 minutes past 3 P. M.

Peter Merialdo--Recorder.