

No. 14783

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF ELKO

LOREN A. PIERCE and DORIS PIERCE,  
Plaintiffs,  
vs.  
EDDY MAUZY and JANET MAUZY,  
Defendants.

FILED

1979 MAR 29 PM 3:23

CLERK *R. L. Kane*DEPUTY *Book D. Hunt*

FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND JUDGMENT

The above-entitled civil action came on for trial before the above-entitled Court on the 28th day of March, 1979, the Hon. JOS. O. McDANIEL, District Judge, presiding without a jury. The matter had been set for trial by Stipulation and Order Setting Trial between GARY E. DI GRAZIA of the Law Firm of GOICOECHELA & DI GRAZIA, Elko, Nevada, Attorneys for Plaintiffs, and HY FORGERON, of Battle Mountain, Nevada, attorney for the Defendants. The Plaintiffs were represented at the trial by attorney, GARY E. DI GRAZIA; however, neither the Defendants nor Defendants' attorney, HY FORGERON, appeared. Evidence was presented on behalf of the Plaintiffs. The matter was argued and submitted to the Court.

THE COURT FINDS AS FOLLOWS:

Findings of Fact

I.

That pursuant to N.R.S. 14.065, personal service of a copy of the Summons, together with a copy of the Complaint, was served on the Defendants on the 25th day of October, 1977, at 1928 E. Fairfield, in the City of Mesa, County of Maricopa, State of Arizona.

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2 II.

3 That Defendants filed an Answer to Plaintiffs' Complaint  
4 January 2, 1978.

5 III.

6 That on or about June 8, 1975, Plaintiffs delivered  
7 to Defendant EDDY MAUZY a certain amount of turquoise which  
8 Defendant MAUZY was to either sell on a consignment basis and  
9 split half of the proceeds with Plaintiffs, or return the turquoise  
10 to Plaintiffs (See Plaintiffs' Exhibit 1).

11 IV.

12 On or about January 31, 1976, the Plaintiffs delivered  
13 an additional amount of turquoise to Defendants in Mesa, Arizona,  
14 which turquoise was to be worked on by the Defendants, and  
15 sold on a consignment basis (see Plaintiffs' Exhibits 3, 4,  
16 and 5). That said turquoise was to be sold and the proceeds  
17 were to be split between Plaintiffs and Defendants on a fifty  
18 percent basis, or, if it was not sold, it was to be returned  
19 to the Plaintiffs.

20 V.

21 That during the months of February and March of 1976,  
22 Plaintiffs demanded that Defendants either return one-half of  
23 the proceeds of any sales that had occurred, or to return the  
24 turquoise which had been delivered to Defendants.

25 VI.

26 That no time was set between the Plaintiffs and Defendants  
27 when the turquoise was to be sold or returned at the time the  
28 turquoise was delivered from Plaintiffs to Defendants.

29 VII.

30 That the total amount of funds received by Plaintiffs  
31 from Defendants as proceeds from the sale of any turquoise was  
32 \$1,127.50.  
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VIII.

That Defendants returned some of the turquoise to Plaintiffs on or before September 30, 1977 (See Plaintiffs' Exhibit 6). Lee Britton, testifying as an expert witness in the field of turquoise analysis and market values, stated that the fair market value of the returned turquoise was \$5,647.00 as of September 30, 1977. Defendants did not return any turquoise to Plaintiffs other than that turquoise listed on Plaintiffs' Exhibit 6.

IX.

That since no time was established for the return of the turquoise, a reasonable period of time for the return of said turquoise by the Defendants to the Plaintiffs after Plaintiffs' demands during the months of February and March, 1976, would have been May of 1976. That Lee Britton testified that the fair market value of the turquoise in its original state as of May of 1976, was \$28,845.00. Mr. Britton explained that the fair market value was 20% higher in May of 1976 than the figures listed in Plaintiffs' Exhibit 7.

Conclusions of Law

I.

That the Court has personal jurisdiction over Defendants Eddy Mauzy and Janet Mauzy.

II.

That Plaintiffs, Loren A. Pierce and Doris Pierce, are entitled to the fair market value of the turquoise as of May of 1976 in the amount of \$28,845.00, less credit given to the Defendants for the fair market value of the turquoise returned in the amount of \$5,647.00, and less credit for the monies received by the Plaintiffs from Defendants in the amount of \$1,127.50.

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III.

Plaintiffs are the prevailing parties and should recover costs of suit together with interest from the Defendants.

J U D G M E N T

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Plaintiffs have and recover from Defendants, EDDY MAUZY and JANET MAUZY the sum of \$22,070.50, together with interest thereon at the rate of seven percent per annum from date of Judgment until paid, plus costs of suit in the amount of \$250.05, as proven by verified Memorandum of Costs and Disbursements filed within five days after service of notice of entry of this Judgment for a total Judgment of \$22,320.55.

DATED this 29th day of March, 1979.

/s/ Jos. O. McDaniel

DISTRICT JUDGE

STATE OF NEVADA,  
COUNTY OF ELKO.

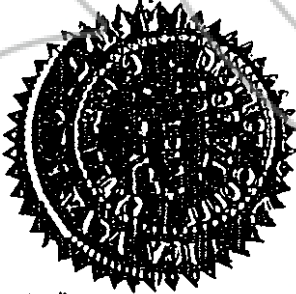
ss.

I, R. L. KANE, County Clerk and ex-officio Clerk of the District Court of the Fourth Judicial District of the State of Nevada, in and for the County of Elko, do hereby certify that the annexed is a full, true and correct copy of

FINDINGS OF FACT, CONCLUSIONS OF LAW AND

JUDGMENT

as the same appears on file and of record in my office.



WITNESS my hand and the seal of said court affixed

the 29th day of March, A.D. 1979.

R. L. Kane

Clerk

By Bobbi' Hunt Deputy Clerk

ELKO INDEPENDENT PRINT

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RECORDED AT THE REQUEST OF Goicoechea & DiGrazia  
on March 30, 1979, at 30 mins. past 10 A.M. in  
Book 69 of OFFICIAL RECORDS, page 413-416, RECORDS OF  
EUREKA COUNTY, NEVADA. WILLIS A. DePAOLI Recorder  
File No. 67998 Fee \$ 6.00

67388

BOOK 69 PAGE 416