

NO. \_\_\_\_\_  
FILED

OCT 4 1991

JOAN SHANGLER CLERK

BY \_\_\_\_\_ DEPUTY

1 No. 3286

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4 **138361**

5 IN THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
6 IN AND FOR THE COUNTY OF EUREKA

7 STEPHEN C. FARNUM,  
8 a single man.

9 Plaintiff,

10 -vs-

11 LLOYD M. MARTIN and  
12 WILMA J. MARTIN,  
husband and wife.

13 Defendants.

FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
JUDGMENT AND DECREE  
OF PARTITION

14 \_\_\_\_\_ /  
15 This matter came on for hearing before the above-  
16 captioned Court on the 4th day of October, 1991. Plaintiff  
17 was personally present in Court with his attorney HY FORGERON,  
18 Esq. Defendant WILMA J. MARTIN was not personally present or  
19 represented by counsel. The Court having examined the file,  
20 heard the testimony of the witnesses, and reviewed the  
21 evidence, and good cause appearing, makes the following

22 **FINDINGS OF FACT**

23 1. Plaintiff STEPHEN C. FARNUM is a single man.  
24 Defendants LLOYD M. MARTIN and WILMA J. MARTIN are husband and  
25 wife. They are currently separated and are in the process of  
26 a divorce in the State of California.

27 2. The real property which is the subject of this  
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action is:

All that certain real property situate in the County of Eureka, State of Nevada, more particularly described as follows:

TOWNSHIP 20 NORTH, RANGE 53 EAST, MDB&M  
Section 4: Lots 15 and 16; S1/2 NE1/4; SE1/4

EXCEPTING THEREFROM all the oil and gas lying in and under said land as reserved in Patent by the United States of America, recorded March 27, 1963, in Book 26, Page 395, Official Records, Eureka County, Nevada

TOGETHER WITH all water, water rights, and rights to the use of water obtained by virtue of those certain State of Nevada Water Permits numbers 19371 and 20001, and State of Nevada Water Certificates numbers 6990 and 7396, and all dams, ditches, canals and other means or devices used for the diversion or use of waters appurtenant to the said property or any part thereof.

The foregoing property is hereinafter referred to as the "real property".

3. The parties to this action obtained title to the real property pursuant to that certain Grant, Bargain And Sale Deed dated May 15, 1974 and recorded at Book 48, Pages 247-249 of the Official Records of Eureka County, Nevada under File Number 58652 on June 11, 1974.

4. Plaintiff owns an undivided one-half interest in the real property. Defendants own an undivided one-half interest in the real property.

5. Plaintiff is a tenant in common with Defendants. Defendants are joint tenants with one another.

6. The real property is subject to certain liens, easements, reservations and indebtedness more fully described

HY FORGERON  
TORNEY AT LAW  
P.O. BOX 1179  
ATTLE MOUNTAIN  
NV 89620

1 on Exhibit "A" which is attached hereto and made a part hereof  
2 by reference.

3 7. The real property is currently used for agricultural  
4 purposes. By virtue of its use, size and the location of  
5 improvements thereon, the real property is so situated that  
6 partition in kind cannot be made without great prejudice to  
7 the owners.

8 8. Plaintiff's Complaint For Partition Of Real Property  
9 By Sale was filed herein on August 2, 1991.

10 9. Defendant LLOYD M. MARTIN was personally served with  
11 process in Eureka County, Nevada and filed his Answer herein  
12 on August 21, 1991.

13 10. This Court's Order For Publication Of Summons with  
14 respect to Defendant WILMA J. MARTIN was filed herein on  
15 August 2, 1991. Defendant WILMA J. MARTIN was served by  
16 publication and mailing as more fully appears from the  
17 Affidavit Of Publication and Certificates Of Service By Mail  
18 filed herein.

19 11. Notice Of Lis Pendens was filed herein on August 2,  
20 1991 and recorded at Book 224, Pages 250-251 of the Official  
21 Records of Eureka County, Nevada under File Number 137374 on  
22 August 2, 1991.

23 12. Defendant WILMA J. MARTIN has failed to answer,  
24 appear or otherwise plead as required and permitted by law and  
25 her Default herein was duly and regularly entered upon the  
26 application of the Plaintiff.

1 13. If any of the foregoing Findings Of fact are deemed  
2 to be Conclusions Of Law, the Court so concludes.

3 From the foregoing Findings Of Fact, the Court makes the  
4 following

5 CONCLUSIONS OF LAW

6 1. That Plaintiff is entitled to a partition of the  
7 real property by sale pursuant to NRS 39.010, et seq.

8 2. That the use, size and location of the real property  
9 and the improvements thereon are such that partition in kind  
10 cannot be made without great prejudice to the owners.

11 3. The real property should be sold and the net  
12 proceeds divided between Plaintiff and Defendants in  
13 accordance with their interests in the real property, after  
14 payment of fees, costs and liens.

15 4. If any of the foregoing Conclusions Of Law shall be  
16 deemed to be Findings Of Fact, the Court so finds.

17 From the foregoing Findings Of Fact and Conclusions Of  
18 Law, the Court enters the following

19 JUDGMENT AND DECREE OF PARTITION

20 IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

21 1. That the real property be sold by public auction or  
22 by private sale pursuant to the provisions of NRS 39.270.

23 2. That the minimum acceptable bid for the property  
24 shall be the sum of \$100,185.84.

25 3. That the sale shall be for cash, lawful money of the  
26 United States of America, to be deposited to an escrow with

1 Frontier Title Company, Elko, Nevada, within 30 days of the  
2 date of the sale, or a down payment of \$10,185.84 and an  
3 encumbrance of \$90,000.00 at 8-1/2% interest payable in annual  
4 installments over 15 years. In the event that the successful  
5 bidder shall not deposit the purchase price or the down  
6 payment in said escrow account within said time period,  
7 Plaintiff shall have the option to extend the time period for  
8 up to an additional 30 days or to renotice and resell the real  
9 property under the same terms and conditions set forth herein.

10 4. Plaintiff is awarded his costs herein, together with  
11 an attorneys fee in the amount of \$ 5,000.00 to be  
12 assessed against the share of Defendant WILMA J. MARTIN.

13 5. The proceeds of the sale of the real property shall  
14 be applied as follows:

15 A. To the costs of sale, including those  
16 reasonable and customary fees charged to the seller by  
17 Frontier Title Company.

18 B. Payment of the indebtedness in favor of Shady  
19 Meadows, Inc. Secured by a Deed Of Trust dated May 21, 1974  
20 and recorded in Book 48, Page 250, in the Official Records Of  
21 Eureka County, Nevada under File Number 58653 on June 11,  
22 1974.

23 C. Payment of the indebtedness evidenced by a  
24 Promissory Note dated November 16, 1987, executed by Farnum  
25 and Martin Farms, borrowers, to LLOYD M. MARTIN, lender and  
26 recorded in Book 200, Page 25 of the Official Records of

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Eureka County, Nevada under File Number 128641 on August 1, 1989.

D. The residue among the owners of the property sold, according to their respective shares therein as follows:

(1) One-half to STEPHEN C. FARNUM.

(2) The remaining one-half, less costs and attorneys fees assessed against WILMA J. MARTIN, to LLOYD M. MARTIN and WILMA J. MARTIN, said sum to be deposited with the Clerk of this Court until appropriate application is made by the Defendants, or either of them, for its release in whole or in part.

6. RAYMOND F. CHRISTIANSEN, Sr. Is hereby appointed as master for the purpose of conducting the sale herein, reporting the same to the court, and executing appropriate conveyances following confirmation of the sale by the Court.

Done in open court this 4th day of October, 1991.

*Raymond F. Christiansen, Sr.*  
DISTRICT JUDGE

SEVENTH JUDICIAL DISTRICT COURT,  
IN AND FOR COUNTY OF EUREKA,  
STATE OF NEVADA } SS

I, the Undersigned COUNTY CLERK, and Ex-Officio CLERK of the SEVENTH JUDICIAL DISTRICT COURT do hereby CERTIFY that the foregoing is a full, true and correct copy of the original on file in my office and that I have carefully compared the same with the original

WITNESS, My Hand and Seal of said DISTRICT COURT, this 28th day of October 1991

*Joan Shaver*  
County Clerk and Ex-Officio Court Clerk

*By: M. Elliott* Deputy Clerk

SEAL  
Affixed

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OFFICIAL RECORDS  
RECORDED AT THE REQUEST OF  
*Steve Farnum*  
'91 OCT 28 P12:55

EUREKA COUNTY, NEVADA  
M.N. REBALEATI, RECORDER  
FILE NO. FEE \$ 10<sup>00</sup>

138361

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HY FORGERON  
ATTORNEY AT LAW  
P.O. BOX 1179  
BATTLE MOUNTAIN  
NV 89820