

BOOK 373 PAGE 341-346
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EUREKA COUNTY, NEVADA
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184936

APN # _____

Recording Requested by:

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Reno, Nevada 89503

ORDER GRANTING MOTION FOR JUDGMENT BASED ON JURY VERDICT

This page added to provide additional information required by NRS 111.312 Sections 1-2.
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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

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* * *

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MAYNARD ALVES,

Plaintiff,

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Case No. CV02-01066

vs.

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Dept. No. 7

26 RANCH, INC., a Colorado Corporation,

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Defendant,

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ORDER GRANTING MOTION FOR JUDGMENT BASED ON JURY VERDICT

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Plaintiff filed a Motion for Judgment Based on Jury Verdict. Defendant opposed this motion reasoning that the Court had not ruled on Defendant's pending motion to retax costs and Plaintiff's pending motion for attorney's fees. In addition, Defendant argues that the amount of prejudgment interest requested by Plaintiff was improperly calculated as some of the damages were not incurred until after service of the complaint and summons. The Court subsequently granted costs to the Plaintiff in the amount of \$18,359.71. In addition, the Court granted the Motion for Attorney's Fees but required Plaintiff to provide documentation of the fees requested and to properly reduce the fees by those amounts attributable to the claims that were dismissed. The Court will address both the amount awarded for attorney's fees and the issue of prejudgment interest in turn.

As to attorney's fees, the Court finds as follows. Plaintiff has provided the Court and Defendant with documentation of attorney's fees totaling \$97,382.50. Plaintiff

1 also states that approximately 15% to 20% of those fees represent amounts attributable to
2 the non-contractual claims that were dismissed. Plaintiff requests that the amount of
3 attorney's fees be reduced by either 10% or 20% whichever the Court finds more
4 appropriate. Defendant has not opposed this request nor made any response to the
5 documentation of fees provided. Four claims for relief that were all based on fraud were
6 dismissed from this action at trial. Though the evidence was significantly overlapping
7 between the contractual and non-contractual claims, additional costs and expenses incurred
8 in making the non-contractual claims and defending these claims cannot be ignored. Thus,
9 the Court finds that a 20% reduction of the total attorney's fees is appropriate. Thus, the
10 Court awards Plaintiff \$77,906.00 in attorney's fees.
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13 As to prejudgment interest, the Court finds as follows. A judgment draws
14 interest from the time of service and summons of the complaint. NRS 17.130(2). To draw
15 interest damages must be sustained, specifically quantified and proven by a preponderance
16 of the evidence. Las Vegas-Tonopah-Reno Stage Lines v. Gray Line Tours, 106 Nev. 283,
17 290 (1990). Consequently, when damages occur after service of the summons and
18 complaint but before judgment, interest on those damages will begin to accrue from the time
19 those damages were actually sustained. Id. at 289. Several of the damages proven by
20 Plaintiff at trial did not occur until after service of the complaint and summons and
21 accordingly the Court agrees with Defendant that prejudgment interest began to accrue on
22 these damages from the date they were actually sustained, not from the date of service of
23 the summons and complaint. Plaintiff has provided the Court with a breakdown of the proper
24 calculation of prejudgment interest on all damages that appears to be proper and that has
25 been calculated based upon the above standards for those damages that were sustained.
26 after service of the summons and complaint. Thus, the Court awards Plaintiff prejudgment
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1 interest in the amount of \$26,155.61.

2 Accordingly, the Motion for Judgment Based on the Jury Verdict is GRANTED
3 as follows:

Jury Verdict in favor of Plaintiff	\$440,793.84
Prejudgment Interest	\$26,155.61
Recoverable Costs	\$18,359.71
Attorney's Fees	\$77,906.00
Total Amount of Judgment	\$563,215.16

11
12 Judgment is therefore entered in favor of Plaintiff and against the Defendant in
13 the total amount of \$563,215.16, with interest to accrue at the legal rate thereon.

14 IT IS SO ORDERED.

15 DATED: This 8 day of January, 2004


17
18 Peter D. Brey
19 DISTRICT JUDGE

CERTIFICATE OF SERVICE BY MAILING

Pursuant to NRCP 5(b), I hereby certify that I am an employee of the Second Judicial District Court, in and for the County of Washoe; and that on this 8 day of January, 2004, I deposited in the County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada, a true and correct copy of the attached document addressed as follows:

Barry L. Breslow, Esq.
71 Washington St.
Reno, NV 89503

Thomas P. Erwin, Esq.
P. O. Box 40817
Reno, NV 89504


KIM DRIGGS
Administrative Assistant

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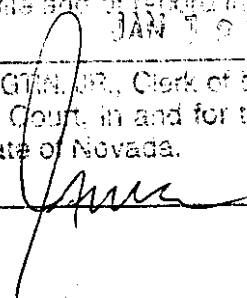
The document to which this certificate is attached is a full, true and correct copy of the original on file and of record in my office.

DATE: _____

JAN 3 1980

RONALD A. LONGMAN, JR., Clerk of the Second Judicial District Court, in and for the County of Washoe, State of Nevada.

By _____



Deputy

184936

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