

BOOK **373** PAGE **341-346**
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2004 JAN 16 PM 2:43

EUREKA COUNTY, NEVADA
M.M. REBALEATI, RECORDER
FILE NO. FEES **19.00**

184936

APN # _____

Recording Requested by:

Name: **Barry L. Breslow, Esq.**
Robison, Belaustegui, Sharp & Low
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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.
(Additional recording fee applies)

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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF WASHOE

8 * * *

9 MAYNARD ALVES,

Plaintiff,

Case No. CV02-01066

10 vs.

Dept. No. 7

11 26 RANCH, INC., a Colorado Corporation,

12 Defendant,
13 _____/

14
15 ORDER GRANTING MOTION FOR JUDGMENT BASED ON JURY VERDICT

16 Plaintiff filed a Motion for Judgment Based on Jury Verdict. Defendant
17 opposed this motion reasoning that the Court had not ruled on Defendant's pending motion
18 to retax costs and Plaintiff's pending motion for attorney's fees. In addition, Defendant
19 argues that the amount of prejudgment interest requested by Plaintiff was improperly
20 calculated as some of the damages were not incurred until after service of the complaint
21 and summons. The Court subsequently granted costs to the Plaintiff in the amount of
22 \$18,359.71. In addition, the Court granted the Motion for Attorney's Fees but required
23 Plaintiff to provide documentation of the fees requested and to properly reduce the fees by
24 those amounts attributable to the claims that were dismissed. The Court will address both
25 the amount awarded for attorney's fees and the issue of prejudgment interest in turn.
26

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

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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.
11
12

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
27
28

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

14 IT IS SO ORDERED.

15 DATED: This 8 day of January, 2004

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17 Peter D. Brey
18 DISTRICT JUDGE
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KIM DRIGGS
Administrative Assistant

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CERTIFIED COPY

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 1966

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

By *[Signature]*

Deputy