

NO.

FILED

BOOK 398

PAGE 124-128

OFFICIAL RECORDS  
RECORDED AT THE REQUEST OF

SEP 14 2004

CASE NO. 0406-041

DEPARTMENT NO. 1

2004 OCT 25 PM 2:01

Eureka County Clerk

BY

Deputy

*What recorded refers to file  
04060491 -21*EUREKA COUNTY, NEVADA  
M.H. REBALEATI, RECORDER  
FILE NO.

FEES 1800

193174

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

JOSHUA L. DRAKE,

Plaintiff,

vs.

STIPULATION FOR SETTLEMENT

AND

DENISE R. LEMLER, MARITZA  
McCONNELL aka MARITZA ARCE and  
JOHN DAVID McCONNELL, aka JOHN D.  
McCONNELL,

REQUEST FOR DISMISSAL

Defendants.

COMES NOW, JOSHUA L. DRAKE, Plaintiff, Wilson and Barrows, Ltd., his  
counsel, DENISE R. LEMLER, MARITZA, McCONNELL aka MARITZA ARCE AND JOHN  
DAVID McCONNELL aka JOHN D. McCONNELL, Defendants and Vaughan and Hull, Ltd.,  
counsel for all defendants, all who stipulate and agree to the following.

I

Agreement Regarding Terms of Sale

All parties and counsel agree that the terms of the Original Property Purchase  
Agreement between JOSHUA L. DRAKE and MARITZA McCONNELL dated December 31, 2003  
are voided and the sale shall be amended in its entirety to provide and read as follows:

1. The seller shall be DENISE R. LEMLER (herein "Seller") and the buyer shall  
be JOSHUA L. DRAKE (herein "Buyer").

2. The property subject of sale is described as follows:

Real property being lots 1,2,3,4 and 5 of Block 17 of the Town of  
Beowawe as shown on the plat filed in the Office of the Eureka County  
Recorder as file no. 2166, Eureka County, Nevada, on June 15, 1908.

VAUGHAN & HULL, LTD.  
ATTORNEYS AT LAW

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530 DAHO STREET - P. O. BOX 1420  
ELKO, NEVADA 89801  
(775) 738-4031

1 TOGETHER WITH all buildings and improvements thereon.

2 TOGETHER WITH all and singular the tenements, hereditaments,  
3 easements, and appurtenances thereunto belonging or in anywise  
4 appertaining, and the reversions, remainders, rents, issues and profits  
thereof, or of any part thereof, including mineral rights and water  
rights.

5 SUBJECT TO all taxes and assessments, reservations, exceptions,  
6 easements, rights of way, limitations, covenants, conditions,  
7 restrictions, terms, liens, charges and licenses of record affecting the  
property.

8 3. The sale price shall be SIXTY - SIX THOUSAND DOLLARS (\$66,000.00).

9 There has been paid by Buyer the sum of \$3,150.00, for which Buyer shall have credit leaving a  
10 balance due of \$62,850.00.

11 4. The purchase price shall not bear interest.

12 5. The purchase price shall be payable in installments of \$650.00 per month until  
13 the balance of the purchase price is paid in full which shall be for ninety-six (96) months and a final  
14 payment of \$450.00. The next installment shall be payable on the 10<sup>th</sup> day of the month following  
15 the month in which this Stipulation for Settlement and Request for Dismissal shall be approved by  
the Court and the complaint is dismissed.

16 6. The late charges heretofore incurred by Buyer are waived by Seller. However  
17 from and after the next installment payment is due the Buyer agrees to pay Seller a late charge of five  
18 dollars (\$5.00) per day for each day after any payment is due until the payment past due is paid.

19 7. The Buyer may make prepayments or pay the balance of the payments in full,  
20 without penalty or additional charge, however, any such prepayment or advance payment shall not be  
21 cumulative and each monthly installment shall be paid as they become due.

22 The balance due shall be evidenced by a Promissory Note and the Note shall be secured by a Deed of  
23 Trust both in form commonly used in Elko County, Nevada.

24 8. Buyer is currently in possession of the property.

25 9. The property not being insurable, the Buyer shall not be required to insure the  
26 same for fire or casualty loss. Loss by fire or other casualty shall not reduce the sums due the Seller  
27 or the monthly payment schedule.  
28

1 The Buyer shall also pay all delinquent and future State, County, District and Town  
2 taxes.

3 10. The Buyer accepts the property in its present condition and state of repair and  
4 waves any rights to a property disclosure form and all rights and remedies pursuant to NRS 113.100  
5 and 113.150.

6 11. All fuel, utilities, power, water and garbage services, now delinquent and in  
7 the future shall be paid by Buyer.

8 12. The transaction shall close at Stewart Title of Northeastern Nevada within  
9 twenty days after approval of the Court as described in Paragraph 5 hereof.

10 13. The Seller shall provide Buyer a Title Insurance Policy issued by Stewart Title  
11 of Northeastern Nevada pursuant to Preliminary Report Order No. 04010491, which shall be  
12 subject to the exceptions and exclusions Nos. 1,2,3 and 4 but not No. 5.

13 14. Costs and expenses of sale:

14 A. Seller shall pay:

- 15 (1) Attorney fees and costs of Robert O. Vaughan;
- 16 (2) One half (1/2) of escrow charges;
- 17 (3) Cost of Title Insurance Policy;
- 18 (4) Drafting of Deed; and
- 19 (5) Recording of Deed of Trust.

20 B. Buyer shall pay:

- 21 (1) Attorney fees and costs of Wilson & Barrows;
- 22 (2) One half (1/2) of escrow charges;
- 23 (3) Drafting of Note and Deed of Trust; and
- 24 (4) Recording of Deed.

25 15. Wilson and Barrows, Ltd. shall look to Buyer for payment of fees and costs.  
26 Vaughan and Hull, Ltd. shall be paid its fees and costs by a monthly disbursement to the firm  
27 directly by Buyer of \$200.00, which shall be deducted from the monthly payments paid to Seller,  
28 until said fees and costs have been paid in full.

II

APPOINTMENT OF GUARDIAN AD LITEM

MARITZA McCONNELL also known as MARITZA ARCE, the mother of John David McDonnell, who is 10 years of age, requests, without objection of any other party, that she be appointed as Guardian Ad Litem, without requirement of bond, pursuant to NRS 12.050 paragraph 3.

The purpose is to clarify the title of the property being sold by Seller to Buyer.

The Guardian Ad Litem should have authority to execute a deed from John David McConnell to the Seller Denise R. Lemler, prior to close of the sale.

III

DEED TO CLARIFY TITLE

Regarding the property subject to the sale, all right, title and interest thereto shall, prior to close of sale, be conveyed by Deed as follows:

1. MARITZA McCONNELL also know as MARITZA ARCE, as Guardian Ad Litem of JOHN DAVID McCONNELL, shall convey any and all, right, title and interest of JOHN DAVID McCONNELL to DENISE R. LEMLER, an unmarried person.

2. MARITZA McCONNELL, also known as MARITZA ARCE, a single woman, shall convey all of her right, title and interest to DENISE R. LEMLER, an unmarried person.

IV

DISMISSAL OF ACTION

At such time as the foregoing has been approval by the Court and compliance therewith by the Plaintiff and Defendants, it is requested that the Case be dismissed the parties to the matter being responsible for payment of their counsels fees and costs, as hereinabove set out.

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Dated effective the 10<sup>th</sup> day of August, 2004.

PLAINTIFF:

Joshua L. Drake  
JOSHUA L. DRAKE

WILSON & BARROWS, LTD.  
Attorney for Plaintiff

By: Stewart R. Wilson  
STEWART R. WILSON  
Nevada Bar No. 800

DEFENDANTS:

Denise R. Lemler  
DENISE R. LEMLER

Maritza McConnell aka Maritza Arce  
MARITZA McCONNELL, aka  
MARITZA McCONNELL Arce

VAUGHAN & HULL, LTD.  
Attorney for Defendants

By: Robert O. Vaughan  
ROBERT O. VAUGHAN  
Nevada Bar No. 0004

John D. McConnell  
By Maritza McConnell  
JOHN D. McCONNELL  
by MARITZA McCONNELL Arce  
his mother McConnell

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.

DISTRICT COURT, this 8th day of October 2004

Francis Hale  
County Clerk and Ex-Officio Court Clerk  
Deputy Clerk

193174

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