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JAMES M. COPENHAVER

Eureka County - NV

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Book- 0454 Page- 0005

APN: 001-131-02

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JUDGMENT AND DECREE

NO.

FILED

CASE NO. CV-0606-077

MAR 15 2007

DEPT NO. 1

Eureka County Clerk

BY James M. Copenhaver Deputy

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

WALTER G. FISK and EDITH L. FISK

Plaintiffs,

vs.

JERRY L. ANDERSON; EDWARD B. ANDERSON; ALICE FLORIO SMITH; JANELLE G. DIETRICH; all other unknown persons, spouses, heirs, devisees of the above-named persons, partnerships, corporations or other entities claiming any right, title, estate, lien or an interest in the real property described in the Complaint adverse to Plaintiffs' ownership or any cloud upon Plaintiffs' title thereto; and DOES 1-10

JUDGMENT AND DECREE

Defendants.

The hearing on the Plaintiffs' Motion for Entry of Judgment on the First Amended Complaint came on regularly for hearing before the court on Friday, March 2, 2007 at 1:00 o'clock P.M. The Plaintiffs appeared by and through their attorney, JAMES M. COPENHAVER, and the Defendants, JERRY L. ANDERSON, EDWARD B.

MAR 14 2007

EUREKA COUNTY CLERK
AND TREASURER



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1 ANDERSON, and JANELLE G. DIETRICH, appeared by and through their
2 attorney, STANLEY J. STEIBER. The Plaintiffs' attorney presented
3 Exhibits numbers 1 through 11, all of which were admitted into
4 evidence. The Plaintiffs' Supplemental Production of Documents,
5 being a letter dated October 12, 2006, from J.P. Uthurralde, Eureka
6 County Assessor, was also filed with the clerk. The court having
7 heard the argument of counsel and having had an opportunity to
8 review the pleadings and documents on file herein and Exhibits
9 numbers 1 through 11, the following Findings and Conclusions and
10 Order are hereby entered by the court.

11 **FINDINGS OF FACT**

12 1. The Plaintiffs' Complaint to Quiet Title was filed on
13 June 19, 2006 to quiet title in the following described property:

14 South 12½ feet of Lot Six (6) of Block Six
15 (6), as the same is delineated and described
16 on the Official Map or Plat of the Townsite of
17 Eureka, approved by the United States General
Land Office on November 19, 1937, on file in
the office of the County Recorder of Eureka
County, Eureka, Nevada.

18 APN: 001-131-02

19 Together with all buildings and improvements
20 located thereon.

21 2. A Notice of Pendency of Action was filed with the court
22 on June 19, 2006 and recorded in the Official Records of the Eureka
23 County Recorder's Office on June 29, 2006 at Book 439, Pages 001 to
24 003, as File No. 205339.

25 3. The Eureka County Sheriff's Office posted a copy of the
26 Summons and Complaint on the real property set forth in the

1 Complaint to Quiet Title on June 29, 2006, as shown by the
2 Declaration of Posting of Summons and Complaint to Quiet Title,
3 which was filed herein on August 17, 2006.

4 4. The Eureka County Sheriff's Office served a copy of the
5 Summons and Complaint to Quiet Title on Defendants **JERRY L.**
6 **ANDERSON** and **EDWARD B. ANDERSON** on July 4, 2006 and a copy on
7 **JANELLE G. DIETRICH** on July 5, 2006.

8 5. An Affidavit of Publication of the Summons was filed on
9 August 22, 2006.

10 6. The Defendants, **JERRY L. ANDERSON**, **EDWARD B. ANDERSON**,
11 and **JANELLE G. DIETRICH**, filed an Answer and Counterclaim dated
12 August 27, 2006.

13 7. The Plaintiffs filed a Joint Case Conference Report on
14 October 26, 2006 and the Defendants did not file any Joint Case
15 Conference Report in this case, even though an Early Case
16 Conference was held on September 19, 2006.

17 8. The Defendants were advised that if they did not
18 stipulate to dismiss the Counterclaim and acknowledge that the
19 Plaintiffs own the property, the Complaint would be amended to
20 allege an intentional slander of title cause of action. (Letters to
21 the Defendants' attorney are attached to the First Amended
22 Complaint).

23 9. The Plaintiffs filed a Motion to File a First Amended
24 Complaint and the court entered an order granting the same on
25 December 1, 2006.

26 10. Notice of Entry of the Order Granting Motion to File

1 First Amended Complaint was filed on December 11, 2006, showing
2 that a copy had been served upon the Defendants' attorney of
3 record, **STANLEY J. STEIBER**.

4 11. The First Amended Complaint was filed on December 11,
5 2006 and served upon the Defendants' attorney of record, **STANLEY J.**
6 **STEIBER**, on December 7, 2006.

7 12. A Notice of Intent to Take a Default Judgment was filed
8 with the court on December 29, 2006 and was mailed to the
9 Defendants' attorney of record on December 26, 2006, stating that
10 a default would be sought on Wednesday, January 3, 2007 based on
11 the Defendants failure to answer the First Amended Complaint.

12 13. The Defendants, **JERRY L. ANDERSON**, **EDWARD B. ANDERSON**,
13 and **JANELLE G. DIETRICH**, have not filed an Answer to the First
14 Amended Complaint.

15 14. An Entry of Clerk's Default pursuant to an Application
16 and Declaration was filed on January 10, 2007.

17 15. No pleadings or other documents have been filed by the
18 Defendants.

19 CONCLUSIONS OF LAW

20 1. The Plaintiffs are entitled to a Decree granting the
21 relief set forth in the First Amended Complaint.

22 2. No proof has been presented in connection with the
23 Defendants' Counterclaim and therefore the relief demanded in the
24 Counterclaim should be denied.

25 3. The Plaintiffs' Exhibits numbers 1 through 11 show a
26 clear chain of title to the South 12½ feet of Lot Six (6) of Block



1 Six (6), APN: 001-131-02, being vested in the Plaintiffs and the
2 Supplemental Production of Documents from the Eureka County
3 Assessor shows that the Plaintiffs and their predecessors in
4 interest have paid the taxes on this lot since July 29, 1948.

5 4. The Defendants failed to remove the Deeds recorded by the
6 Defendants, which deeds constitute a cloud upon the Plaintiffs'
7 title to the South 12½ feet of Lot Six (6) of Block Six (6), APN:
8 001-131-02.

9 WHEREFORE, the Court enters its Judgment and Decree as to
10 the Defendants, **JERRY L. ANDERSON, EDWARD B. ANDERSON, ALICE FLORIO**
11 **SMITH, JANELLE G. DIETRICH**, and all other unknown persons,
12 partnerships, corporations or other entities which may claim any
13 interest in the real property as follows:

14 1. The Defendants are hereby adjudged to have no right,
15 title, interest, or lien claim whatsoever against the real property
16 located in the County of Eureka, State of Nevada, and more
17 particularly described as follows:

18 South 12½ feet of Lot Six (6) of Block Six
19 (6), as the same is delineated and described
20 on the Official Map or Plat of the Townsite of
21 Eureka, approved by the United States General
Land Office on November 19, 1937, on file in
the office of the County Recorder of Eureka
County, Eureka, Nevada.

22 APN: 001-131-02

23 Together with all buildings and improvements
24 located thereon.

25 2. The Defendants and each of them are forever enjoined and
26 barred from asserting any claim whatsoever against the above-
described real property.

3. The Plaintiffs are hereby adjudged and decreed to be the sole and true owners of the real property described above in fee simple, absolute, and title is hereby quieted in the Plaintiffs, **WALTER G. FISK** and **EDITH L. FISK**, husband and wife.

4. A certified copy of this Decree should be recorded in the Official Records of the Eureka County Recorder's Office, Eureka County, Nevada.

5. The Defendants have not presented any evidence showing that they have any right, title or interest in the above-described real property and therefor the Defendants' Counterclaim is hereby dismissed with prejudice.

6. The Defendants are further ordered to remove any and all personal property that they may have located on Lot Six (6) of Block six (6) within ten (10) business days of the date of the Notice of Entry of this Judgment.

DATED this 13 day of March, 2007.

HONORABLE STEVEN DOBRESCU
District Judge - Department 1

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 23 day of march 20 07

County Clerk and Ex-Officio Court Clerk
Deanna McCall Deputy Clerk