

1 CASE NO: DC-CV-23-18

2 DEPT NO: 3

3 Affirmation: Pursuant to NRS 239B.030.
4 This document does not contain the social
5 Security number of any person.

6 JOHN W. MUIJE & ASSOCIATES
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13 *Attorneys for Plaintiff*

FILED
2024 MAR 25 PM 1:40
4TH JUDICIAL DISTRICT COURT
CLERK DEPUTY *am*

EUREKA COUNTY, NV
LAND-ORD
Rec:\$37.00
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JOHN W MUIJE & ASSOCIATES



KATHERINE J. BOWLING, CLERK RECORDER

14 IN THE FOURTH JUDICIAL DISTRICT COURT OF THE STATE OF
15 NEVADA IN AND FOR THE COUNTY OF ELKO

16 ACHA CONSTRUCTION, LLC,
17 Plaintiff.
18 vs.
19 DV GRAVEL AND EXPLORATION, LLC,
20 Defendant.

Date of Hearing: March 14, 2024
Time of Hearing: 3:00 P.M.

21 **ORDER GRANTING PLAINTIFF'S MOTION FOR SUMMARY**
22 **JUDGMENT, FINDINGS OF FACT, CONCLUSIONS OF LAW AND**
23 **JUDGMENT**

24 This matter came on for hearing upon the time and date noted above, Plaintiff was
25 represented by JOHN W. MUIJE, ESQ., of the Law Offices of JOHN W. MUIJE &
26 ASSOCIATES, and Defendants DV GRAVEL & EXPLORATIONS, LLC, neither appearing nor
27 having opposed Plaintiff's Motion, the Court having reviewed and considered the Plaintiff's
28 Points and Authorities, Exhibits, and oral argument, as well as the pleadings and documents on

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1 file herein, and being fully advised in the premises, the Court expressly finds and rules as
2 follows:

3
4 **FINDINGS OF FACT**

5 1. ACHA CONSTRUCTION, LLC is a validly constituted business entity that
6 agreed to sell a rock crushing machine and related equipment to DV GRAVEL AND
7 EXPLORATION, LLC.

8 2. Defendant DV GRAVEL AND EXPLORATION, LLC entered into a written
9 contract with Plaintiff ACHA CONSTRUCTION, LLC for the purchase of such equipment "as
10 is", and without any warranty, for a total price of \$85,000.00.

11 3. Said written contract also provided an express waiver of any consequential damages
12 or claims resulting from any problems with the subject equipment.

13 4. Incident to the parties' written contract, Defendant purchased, and Plaintiff
14 provided the aforesaid construction equipment to Defendant.

15 5. The equipment purchased by Defendant and supplied by Plaintiff was duly
16 delivered, accepted, and received by Defendant.

17 6. DV GRAVEL AND EXPLORATION, LLC made a \$25,000 deposit, and then an
18 initial installment payment of \$20,000, pursuant to the contract.

19 7. Thereafter, DV GRAVEL AND EXPLORATION, LLC, defaulted on the second
20 and third contractual installments due on April 1, 2022, and May 1, 2022, in the amount of
21 \$20,000.00 each.

22 8. Subsequent to April 1, 2022, Defendant DV GRAVEL AND EXPLORATION,
23 LLC never made any additional payments.

24 / / / /
25
26
27
28

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1 9. The unpaid balance under the parties' written contract is and was \$40,000.00.

2 10. Additionally, the parties' written contract also provided for reasonable attorneys'
3 Fees and costs.

4 11. Despite being afforded ample time to oppose Plaintiff's Motion For
5 Summary Judgment, and consenting to the scheduled hearing date, Defendant neither appeared
6 NOR produced any competent evidence that raised any legitimate issue of material fact.
7

8 **CONCLUSIONS OF LAW**

9 Based upon the above and foregoing the Court concludes as follows:

10 1. There existed a valid contract between Plaintiff and Defendant DC GRAVEL AND
11 EXPLORATION, LLC
12

13 2. Said Defendant breached the agreement and is therefore liable under theories
14 of breach of contract, account stated, and unjust enrichment.

15 3. The total unpaid principal balance as of April 1, 2022 totals \$40,000.00.

16 4. The interest accrual on that sum at the statutory rate from April 1, 2022, through
17 February 1, 2024, totals \$6191.62.
18

19 5. Additionally, Plaintiff is entitled to recover taxable costs in accordance with NRS 18.005
20 and NRS 18.110.

21 6. Given the parties' contract, Plaintiff is also entitled to recover reasonable attorneys'
22 fees, which the Court has evaluated in terms of the Brunzell factors, which the Court expressly
23 approves as applicable and justifying an award of attorneys' fees to Plaintiff in the amount set
24 forth hereinafter.
25

26 Based upon the above and foregoing, it is only just and appropriate that Plaintiff have
27 judgment against Defendant DV GRAVEL AND EXPLORATION, LLC and the same shall enter
28 as follows, forthwith.

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ORDER


Based upon all of the above and foregoing recitations:

IT IS HEREBY EXPRESSLY ORDERED ADJUDGED AND DECREED, that Plaintiff's Motion for Summary Judgment be and the same is hereby granted.

JUDGMENT

Accordingly, the Court hereby enters Judgment in favor of Plaintiff, ACHA CONSTRUCTION, and against Defendant DV GRAVEL AND EXPLORATION, LLC., in the amount of \$40,000.00, together with costs of Court pursuant to Plaintiff's verified memorandum of costs in the amount of \$558.50, accrued interest at the statutory rate from April 1, 2022 through February 1, 2024 in the amount of \$6,191.62 and reasonable attorneys' fees in the amount of \$7,500.00, for a total Judgment in the amount of \$54,250.12, all of the same to bear interest at the statutory rate from February 1, 2024 until paid.

DATED this 25 day of March, 2024


DISTRICT COURT JUDGE

Submitted by:

JOHN W. MUJE & ASSOCIATES

By: 

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Attorneys for Plaintiff

CERTIFIED COPY
DOCUMENT ATTACHED IS A
TRUE AND CORRECT COPY
OF THE ORIGINAL ON FILE
28th day of Mar, 2024


REBECCA PLUNKETT
CLERK

**AFFIDAVIT IN SUPPORT OF
RECORDATION OF ORDER GRANTING PLAINTIFF'S MOTION FOR SUMMARY
JUDGMENT, FINDINGS OF FACT, CONCLUSIONS OF LAW AND JUDGMENT**

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

JOHN W. MUIJE, being first duly sworn, deposes and says:

1: That affiant is counsel for Plaintiff in the above-entitled matter.

2: That, to the best of affiant's knowledge, the last known address of the judgment debtor in this matter is 564 Selim Way, Eureka, NV 89836.

3: As a matter of law, a limited liability company is a fictitious entity and does not have either a Social Security number nor is it issued a driver's license. This limited liability company, DV GRAVEL & EXPLORATION, LLC is registered with the Nevada Secretary of State under file number E0253472014-0.

4: The judgment debtor was first chartered on 5-13-2014.

Dated this 12th day of June, 2024.

JOHN W. MUIJE & ASSOCIATES

By: _____

JOHN W. MUIJE, ESQ.,

Nevada Bar No: 2419

P.O. BOX 306

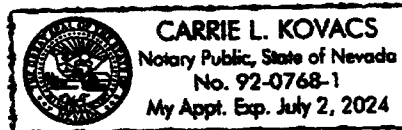
Wells, NV 89835

E-Mail: jmuije@muijelawoffice.com

Attorneys for Plaintiff

SUBSCRIBED and SWORN to be
this 12th day of June, 2024


NOTARY PUBLIC



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Email: jmuije@muijelawoffice.com

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Affidavit in Support of Recordation of Order Granting Plaintiff's Motion for Summary Judgment, Finding of Fact, Conclusions of Law and Judgment filed in Fourth Judicial District Court of the State of Nevada in and for the County of Elko: DC-CV-23-18

Does not contain the social security number of any person.

OR

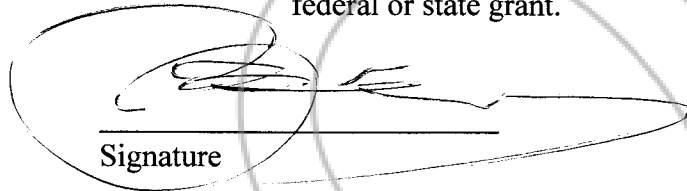
Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

(State specific law)

OR

B. For the administration of a public program or for an application for a federal or state grant.



Signature

June 12., 2024

Date

John W. Muije, Esq.,

Print name

Attorney

Title