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Case No. 17840

Dept. No. 2

'87 JUL 23 P2:20

BARBARA ESTA CLERK

107-24-87 108660VE

BYD. DALEY DEPUTY

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF DOUGLAS

MARLENE BROMAGHIM dba DISCOUNT BAR AND RESTAURANT SUPPLY,

Plaintiff,

vs.

JOHN SUTTER and DEBORAH SUTTER,

FINDINGS OF FACT CONCLUSIONS OF LAW AND JUDGMENT

Defendants.

The above-entitled action was heard by this Court on the 29th day of June, 1987. Plaintiff appeared personally by and through her attorney, Michael Smiley Rowe. Defendants failed to appear at trial.

After being fully advised, the Court hereby makes and enters its Findings of Fact, Conclusions of Law and Judgment.

FINDINGS OF FACT

1. On or about August 11, 1986, plaintiff and defendants entered into an agreement whereby defendants agreed to purchase the Discount Bar and Restaurant business from plaintiff. The purchase price was \$20,403.40 and defendants agreed to monthly

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NORMAN C. ROBISON
DISTRICT JUDGE
DOUGLAS COUNTY
P.O. BOX 218
MINDEN, NY 89423

payments of \$2,000 commencing September 1, 1986, with the entire balance due on or before December 1, 1986.

- 2. After making two \$2,000 payments, the defendants failed to make any further payments, leaving a balance due and owing of \$16,043.40. Plaintiff has made several demands for the balance but defendants have failed to make any further payments.
- 3. Due to the defendants' breach of contract the plaintiff was forced to retake the premises of Discount Bar and Restaurant Supply in order to prevent a termination of the business' tenancy with Round Hill Mall and to prevent ruination of the business' credit.
- 4. On or about January 20, 1987, plaintiff retook the business and remained in possession thereof until on or about June 1, 1987. During this period the Court finds that the plaintiff was damaged in the following amounts in attempting to keep the business solvent: \$3,317.59 for payments made on past due bills and overdrafts, and \$2,000 for personal loans incurred in attempting to keep the business.
- 5. The Court also finds that from February 1, 1987, to June 1, 1987, plaintiff expended 40 hours per week in retaking and operating the business, for a total time commitment of 680 hours. Plaintiff would not have had to expend this work time had it not been for the breach of contract by the defendants. The Court finds that it is fair and equitable that plaintiff be compensated at at rate of \$10.00 per hour for this work, for a total sum of \$6,800.

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DRMAN C. ROBISON DISTRICT JUDGE DOUGLAS COUNTY P.O. BOX 218 MINDEN, NY 89423 •

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NORMAN C. ROBISON DISTRICT JUDGE DOUGLAS COUNTY P.O. BOX 218 MINDEN, NV 89423 6. The \$16,000 which plaintiff claims she is owed for the balance of the purchase price of the business is not recoverable. On April 21, 1987, plaintiff resold the business to a third party for a purchase price greater than the original purchase price agreed to by defendants.

7. Plaintiff is entitled to a reasonable attorney's fee in the amount of \$2,500 and \$391 in costs.

CONCLUSIONS OF LAW

- 1. Defendants failure to tender the balance owing in accordance with the terms of the parties' agreement constituted a breach of contract. Plaintiff's total damages resulting therefrom is \$12,117.59.
- 2. In actions where the prevailing party has recovered less than \$20,000, the Court may make a reasonable award of attorney's fees. N.R.S. 18.010

JUDGMENT

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED, on the basis of the foregoing, that plaintiff is awarded judgment in the amount of \$12,117.59. Interest shall accrue on said amount at the rate of 12% from February 24, 1987. Plaintiff is further awarded attorney's fees in the amount of \$2,500 and costs in the amount of \$391.

DATED this 234 day of July, 1987.

NORMAN C. ROBISON DISTRICT JUDGE

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The document to which this certificate is attached is a full, true and consect copy of the original and if record in my office. 10 11 11 12 13 14 15 16 17 18 19 20 21 22 23 24 26 27 NORMAN C. ROBSON DURING JUBBLY S. C. P. AID. NORMAN C. ROBSON DURING JUBBLY S. C. P. AID. NORMAN C. ROBSON DURING JUBBLY S. C. P. AID. NORMAN C. ROBSON DURING JUBBLY S. C. P. AID. NORMAN C. ROBSON DURING JUBBLY S. C. P. AID. NORMAN C. ROBSON DURING JUBBLY S. C. P. AID. NORMAN C. ROBSON DURING JUBBLY S. C. P. AID. NORMAN C. ROBSON DURING JUBBLY S. C. P. AID. NORMAN C. ROBSON DURING JUBBLY S. C. P. AID. NORMAN C. ROBSON DURING JUBBLY S. C. P. AID. NORMAN C. ROBSON DURING JUBBLY S. C. P. AID. NORMAN C. ROBSON DURING JUBBLY S. C. P. AID. NORMAN C. ROBSON DURING JUBBLY S. C. P. AID. NORMAN JUBLY S. C. P. AID. NORMAN JUBBLY S. C. P. AID. N		2	Copies served by mail this 237 day of July, 1987, to: Michael Smiley Rowe, Esq. P. O. Box 2080, Minden, Nv 89423; Johnston, P. O. Box 1166, Zophyn Comp. No. 2011.
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