CASE NO. 88-00444A

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ALAH GLAVAR K. GUTHRE CARK BY 100-014

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR CARSON CITY

MATHEWS IRRIGATION SUPPLY CO.,

Plaintiff,

vs.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND JUDGMENT

EVAN L. ALLRED, and DOES I-V,

Defendants.

The above entitled matter was tried before this Honorable Court on October 26 and October 27, 1988. CHARLES M. KILPATRICK, ESQ., appeared as counsel for plaintiff MATHEWS IRRIGATION SUPPLY CO., and JOHN SPRINGGATE, ESQ., appeared as counsel for defendant EVAN L. ALLRED.

The Court having heard the testimony and considered the evidence makes the following Findings Of Fact and Conclusions Of Law.

## FINDINGS OF FACT

- 1. The negotiations between the parties consisted of a single meeting at the defendant's office, wherein no mutually agreed upon contract was reached.
- 2. Plaintiff supplied irrigation pipe and a control panel to defendant at plaintiff's expense in the amount of \$14,638.00.

  Said materials were installed as part of the defendant's irri
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gation system and defendant has retained their use.

3. Plaintiff should be entitled to recover the actual cost of the materials provided to defendant under a theory of <u>quantum</u> <u>meruit</u>, said amount being \$14,638.00.

## CONCLUSIONS OF LAW

- 1. The evidence adduced at trial did not support a finding of mutuality sufficient to establish an enforceable agreement.
- 2. Having failed to establish the existence of any enforceable contract, recovery should be denied as to the defendant's counterclaim.
- 3. That plaintiff is entitled to a <u>quantum meruit</u> recovery in the amount of \$14,638.00.

## **JUDGMENT**

The Court having heard the testimony and considered the evidence adduced, makes the following Judgment:

- 1. That Judgment is granted in favor of plaintiff and against defendant in the sum of \$14,638.00.
  - 2. That defendant take nothing by way of his Counterclaim.
- 3. That the Findings Of Fact and Conclusions Of Law are incorporated herein by reference.
- 4. That defendant pay the sum of \$ 2,500 0 as and for attorney's fees, together with costs of suit in the amount of \$1,060.31.

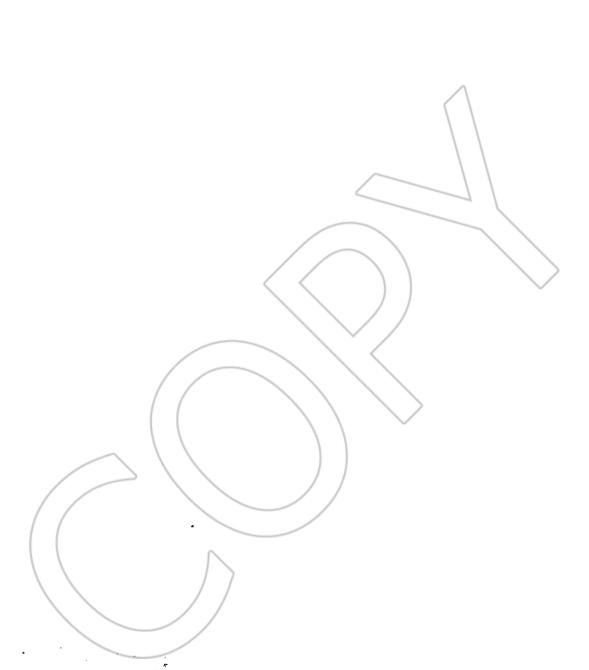
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DISTRICT JUDGE

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Havedo, in and for Curson City.

Deputy