

1 CASE NO. 88-00444A

2 DEPT. NO. II

'88 DEC -7 P1:02

ALAN GUTIERREZ
K. GUTHRIE CLERK
BY _____ DEPUTY

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6 IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR CARSON CITY

8
9 MATHEWS IRRIGATION SUPPLY CO.,

10 Plaintiff,

11 vs.

12 EVAN L. ALLRED, and DOES I-V,

13 Defendants.

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
JUDGMENT

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

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

22 FINDINGS OF FACT

23 1. The negotiations between the parties consisted of a
24 single meeting at the defendant's office, wherein no mutually
25 agreed upon contract was reached.

26 2. Plaintiff supplied irrigation pipe and a control panel
27 to defendant at plaintiff's expense in the amount of \$14,638.00.

28 Said materials were installed as part of the defendant's irri-

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KILPATRICK, JOHNSTON & ADLER, Attorneys at Law, 412 North Division St., Carson City, Nevada 89701, (702) 882-6112, 883-5149

1 gation system and defendant has retained their use.

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

5 CONCLUSIONS OF LAW

6 1. The evidence adduced at trial did not support a finding
7 of mutuality sufficient to establish an enforceable agreement.

8 2. Having failed to establish the existence of any
9 enforceable contract, recovery should be denied as to the
10 defendant's counterclaim.

11 3. That plaintiff is entitled to a quantum meruit recovery
12 in the amount of \$14,638.00.

13 JUDGMENT

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

16 1. That Judgment is granted in favor of plaintiff and
17 against defendant in the sum of \$14,638.00.

18 2. That defendant take nothing by way of his Counterclaim.

19 3. That the Findings Of Fact and Conclusions Of Law are
20 incorporated herein by reference.

21 4. That defendant pay the sum of \$ 2,500.00 as
22 and for attorney's fees, together with costs of suit in the amount
23 of \$1,060.31.

24 December 7, 1988

25 *Michael E. Zandi*

26 DISTRICT JUDGE

27 193886

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DATE: 12/23/88 **SEAL**

SUZANNE BEAUDREAU
RECORDER

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County Clerk of the
First Judicial District Court of the State of
Nevada, in and for Carson City.

\$ 7.00 PAID [Signature]
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BY [Signature] Deputy