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DOC # 0693799
01/26/2007 03:54 PM Deputy: DW

OFFICIAL RECORD

Requested By:

ROWE & HALES E & HALES

APN: 1418-34-201-004
RECORDING REQUESTED BY AND
MAIL TO:

MICHAEL SMILEY ROWE, ESQ.
1638 Esmeralda Avenue
Minden, NV 89423

Douglas County - NV
Werner Christen - Recorder

Page: 1 of 17 Fee: 30.00
BK-0107 PG- 8796 RPTT: 0.00



Pursuant to NRS 239B.030(4), I affirm that
the instrument contained below (or attached hereto)
does not contain the social security number
of any person.

DEFAULT JUDGMENT

COPY

FILED

1 CASE NO. 03-CV-0323

NO. _____

2 DEPT. NO. II

2007 JAN 23 PM 2:17

BARBARA J. GRIFFIN

P. GREGORY

BY _____ DEPUTY

3
4
5
6 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

7 IN AND FOR THE COUNTY OF DOUGLAS

8 KIRK B. LEDBETTER AND DEBRA K.
9 LEDBETTER, husband and wife,

10 Petitioners,

DEFAULT JUDGMENT

11 vs.

12 THE STATE OF NEVADA, ARLETTE
13 MARIE KURDZIEL, and ANY AND ALL
14 PERSONS UNKNOWN CLAIMING ANY
15 LEGAL OR EQUITABLE RIGHT,
16 TITLE, ESTATE OR LIEN OR
17 INTEREST IN THE PROPERTY
18 DESCRIBED IN THE PETITION; and
19 DOES 1-10, inclusive,

20 Respondents.
21 _____ /

22 **THIS MATTER** comes on before the Court on the Application for
23 Default Judgment filed by Petitioners herein, KIRK B. LEDBETTER and
24 DEBRA K. LEDBETTER, husband and wife. A Clerk's Default has also been
25 entered in this matter. The Application is supported by the Affidavit
26 of the Petitioners' counsel.

27 Based upon all of the pleadings on file herein, and the
28 Application for Default Judgment, and good cause appearing:

IT IS HEREBY FOUND, CONCLUDED AND ORDERED AS FOLLOWS:

1. The Court finds that KIRK B. LEDBETTER and DEBRA K.



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PG- 8797
01/26/2007

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1 LEDBETTER ("LEDBETTER") own property located in Douglas County,
2 Nevada, generally described as 1220 Hwy. 50, Zephyr Cove, Nevada,
3 89448, and is further generally described as Douglas County, Nevada
4 Assessor's Parcel No. 1418-34-201-004. The LEDBETTER property is
5 further described in Exhibit "A" to this Judgment. Hereinafter, the
6 LEDBETTER land shall be referred to as "the property".

7
8 2. The property includes a small area of land which is
9 described as certain underground water pipeline, water pump and
10 appurtenant fixtures easement ("the easement"). The easement was
11 first evidenced by that agreement dated December 15, 1953, and
12 recorded on January 14, 1955, Book H of Agreements at Page 143, as
13 Document No. 1021, Douglas County Records. It is also described in
14 that deed dated December 15, 1953, and recorded August 26, 1960 at
15 Book 2, Page 287, as Document 15991, Official Records of Douglas
16 County.

17 3. The Court finds that the easement was first referenced as
18 being granted by Mrs. Charlotte Zoecher, Marie C. Zoecher (aka Maria
19 C. Beers) and Marguerite E. Zoecher (also known as Marguerite E.
20 Naanes). Ms. Zoecher et al. granted an easement to Lyle W. Kellogg
21 and Marguerite C. Kellogg, his wife. The easement burdened the
22 property which is now owned by the LEDBETTERS.

23 4. The Court finds that LEDBETTERS requested that Stewart
24 Title Company ("Stewart Title") issue a litigation guarantee for the
25 easement. A copy of the litigation guarantee is attached as Exhibit
26 "D" to the Petition. The LEDBETTERS are the insured under the
27 litigation guarantee, and the interest in the property which is
28

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1 covered by the guarantee is the easement. At page 6 of the litigation
2 guarantee the easement is described and ARLETTE MARIE KURDZIEL is the
3 person identified as the owner of the easement and the person to whom
4 notice of the Petition should have been, and was, sent. Schedule B of
5 the litigation guarantee reveals that there are no other encumbrances
6 on the area of the easement.

7 5. The Court finds that except for ARLETTE MARIE KURDZIEL all
8 of the known parties who may claim an interest in the property and the
9 easement have relinquished such interest by conveyance of the property
10 and the easement. The Court finds that from December 15, 1953 to the
11 present day the LEDBETTERS, or LEDBETTERS' predecessors in interest,
12 have owned the property and easement area. The Court further finds
13 that during the entire period of ownership of the property by
14 LEDBETTERS or their predecessors, the easement area has never been
15 utilized for the construction or maintenance of an underground water
16 pipeline, water pump and appurtenant fixtures as contemplated by the
17 grantor and grantee of the easement.

18 6. LEDBETTERS have alleged, and the Court so finds, that the
19 purposes for which the easement was granted are now moot, and that the
20 dominant tenement's owners do not require the easement to secure water
21 from Lake Tahoe to transmit such water across the property to the
22 property owned by ARLETTE MARIE KURDZIEL.

23 7. The Court finds that ARLETTE MARIE KURDZIEL has died. A
24 Suggestion of Death Upon the Record was filed in this matter on August
25 2, 2004. It also appears to the Court that the successors to the
26 interests of ARLETTE MARIE KURDZIEL are her husband and her children.
27
28

1 8. The Court finds that to the date of this Order no
2 responsive pleading has been filed to the Petition and its causes of
3 action. The Court further finds, based upon the Application and the
4 Exhibits to the Application, that the KURDZIEL interests had actual
5 notice of the Petition and the requests of the LEDBETTERS. Numerous
6 extensions of time were granted to the KURDZIEL interests within which
7 to formulate a position with regard to the Petition and to either
8 accede to it or contest it. No action has been taken on the Petition
9 by the KURDZIEL Respondents.

10
11 9. The Court finds that from December 15, 1953, the date of
12 the creation and conveyance of the easement, to the present time, the
13 LEDBETTERS, and/or their predecessors in interest, have owned,
14 maintained, paid taxes on and enjoyed the property and the easement
15 area without claim by ARLETTE MARIE KURDZIEL or any of her
16 predecessors or successors in title. The Court further finds that at
17 no time has ARLETTE MARIE KURDZIEL, or predecessors or successors in
18 interest, constructed, used or maintained an underground water
19 pipeline, water pump and appurtenant fixtures upon the area
20 encompassed within the easement. LEDBETTERS have alleged, and the
21 Court so finds, that the dominant tenement (KURDZIEL parcel)
22 benefitted by the easement no longer exists in the form it existed in
23 1953 as a result of the construction and widening of Hwy. 50, and that
24 the remainder parcel after the expanded right-of-way was established
25 may obtain domestic water from another source.

26
27 10. The LEDBETTERS have alleged, and the Court so finds, that
28 no one, including the LEDBETTERS, intended to interfere with the

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01/26/2007

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1 easement so long as it was used for its intended purpose. However,
2 the easement has not been, and is not now, used for water conveyance.
3 No improvements as contemplated by the easement exist on the LEDBETTER
4 property.

5 11. The LEDBETTERS have alleged, and the Court so finds, that
6 they and their predecessors have owned and possessed the property
7 since 1869, and LEDBETTERS, under their ownership, have regularly
8 conducted or performed any and all acts of control and dominion over
9 the property. The LEDBETTERS' possession of the property, including
10 the easement, has been continuous and uninterrupted by any acts of any
11 of the KURDZIEL family, or their predecessors in interest. All taxes
12 on the property have been paid by the LEDBETTERS or their predecessors
13 in interest, and they have occupied the property in an actual,
14 hostile, exclusive, continuous, open and notorious manner adverse to
15 the easement.
16

17 12. The Court concludes as a matter of law that due and proper
18 notice of the Petition has been presented to the KURDZIEL interests.
19 More than the required time has elapsed since the Petition was served
20 upon the KURDZIEL interests; specifically upon the son of ARLETTE
21 MARIE KURDZIEL.

22 13. The Court concludes as a matter of law that the LEDBETTERS
23 are entitled to a declaratory judgment from this Court, pursuant to
24 NRS 30.010 et. seq., declaring that the easement shall be expunged.
25

26 14. The Court concludes as a matter of law that the LEDBETTERS
27 are entitled to this Court's judgment quieting title to the property
28 and the easement area in the LEDBETTERS and that none of the

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1 Respondents, including the KURDZIEL interests, have any right, claim
2 or interest in the property including the easement area referenced in
3 the Petition, the Application and in this Judgment. The LEDBETTERS
4 are entitled to this Court's judgment recognizing them as the owners
5 of the property without claim of any of the Respondents.

6 15. The Court concludes as a matter of law that it has
7 jurisdiction over the LEDBETTERS and the Respondents. Respondents
8 have been actually aware of the Petition, and have requested time to
9 respond to it. The property of the LEDBETTERS is situated in Douglas
10 County, Nevada.

11 **JUDGMENT**

12
13 Based upon all pleadings on file here, the above-stated findings
14 of fact and conclusions of law, the Court deems itself well advised in
15 the premises and hereby enters the following judgment:

16 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that ARLETTE MARIE
17 KURDZIEL, and all of her successors in title, and any and all persons
18 unknown claiming any legal or equitable right, title, estate or lien
19 or interest in the property described in Exhibit "A" hereto shall have
20 no claim or interest in the LEDBETTER property. Title to the property
21 identified in Exhibit "A" is quieted in KIRK B. LEDBETTER and DEBRA K.
22 LEDBETTER, husband and wife, without claim by any of the Respondents
23 to any right or interest in the property including the easement.

24
25 **JUDGMENT IS HEREBY ENTERED** in favor of KIRK B. LEDBETTER and
26 DEBRA K. LEDBETTER, husband and wife, LEDBETTERS, and against ARLETTE
27 MARIE KURDZIEL, and any person claiming an interest in the property or
28 the easement under her as her successor in title, Respondents, to the

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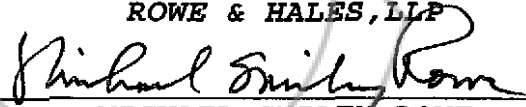
1 property located in Douglas County, Nevada, generally described as
2 1220 Hwy. 50, Zephyr Cove, Nevada, 89448, and further generally
3 described as Douglas County, Nevada Assessor's Parcel No. 1418-34-201-
4 004, and that area described in the Petition and in this Judgment as
5 the easement; which easement is more fully described in Exhibit "B" to
6 this Judgment. The easement depicted and described in Exhibit "B" to
7 this Judgment shall be, and the same is hereby, expunged, and the
8 easement shall have no force or effect hereinafter.

9
10 **IT IS THE JUDGMENT OF THE COURT**, by virtue of this Judgment and
11 Decree, that all of the areas described in Exhibits "A" and "B" to
12 this Judgment shall be quieted in KIRK B. LEDBETTER and DEBRA K.
13 LEDBETTER, husband and wife, free and clear of any claim of interest,
14 encumbrance, lien, easement or right whatsoever in ARLETTE MARIE
15 KURDZIEL, her successors in interest, and any and all persons unknown
16 claiming any legal or equitable right, title, estate or lien or
17 interest in the LEDBETTER property.

18 Dated this 23 day of January, 2007.

19 
20 MICHAEL P. GIBBONS
21 DISTRICT COURT JUDGE

22 Submitted by:
23 ROWE & HALES, LLP

24 
25 MICHAEL SMILEY ROWE
26 Nevada Bar Number 1374
27 1638 Esmeralda
28 P.O. Box 2080
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Attorney for Petitioners

 BK- 0107
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1 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
2 IN AND FOR THE COUNTY OF DOUGLAS
3

4 The undersigned does hereby affirm that the preceding document,
5 Default Judgment, filed in Case No. 03-CV-0323

6 X Does not contain a social security number of any person;
7

8 -OR-

9 Contains a social security number as required by:

10 A specific state or federal law, to wit:
11

12 (State specific state or federal law)

13 -OR-

14 For the administration of a public program
15

16 -OR-

17 For the application for a federal or state grant.
18

19 Dated: January 18, 2007.
20

21 **ROWE & HALES, LLP**

Michael Smiley Rowe

MICHAEL SMILEY ROWE

Nevada Bar Number 1374

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COPY

EXHIBIT "A"



LEGAL DESCRIPTION

Order No.: 030503592

The land referred to herein is situated in the State of Nevada, County of DOUGLAS, described as follows:

Beginning at a point on the East boundary line of Lot Two (2), Section 34, Township 14 North, Range 18 East, M.D.B.&M., said point being South 0°31' West 982.075 feet from the Northeast corner of said Lot Two (2); thence North 89°53' West 1480 feet, more or less, to the Meander Line of Lake Tahoe; thence South 29°00' East, following said Meander Line 148.80 feet; thence South 89°53' East 1410 feet, more or less to the East boundary line of said Lot Two (2); thence North 0°31' East 130 feet to the place of beginning.

Excepting any portion of the above described property lying within the bed of Lake Tahoe below the line of natural ordinary high water and also excepting any artificial accretions to the land waterward of the line of natural ordinary high water or, if lake level has been artificially lowered, excepting any portion lying below an elevation of 6,223.00 feet, Lake Tahoe Datum established by NRS 321.595.

Excepting therefrom the portion of the property beginning at a point on the East boundary line of Lot 2, Section 34, Township 14 North, Range 18 East, M.D.B.&M., said point being South 0°31' West 982.075 feet from the Northwest corner of said Lot 2; thence North 89°53' West along the North line of the original parcel; said parcel being more fully described in that certain deed recorded in Book "S" of Deeds, page 365, records of Douglas County, Nevada, a distance of 498.80 feet, more or less, to a point on the Easterly right of way line of U.S. Highway No. 50; thence Southerly along said Easterly right of way line to a point on the South line of the aforementioned original parcel; thence South 89°53' East, along said South line a distance of 462.67 feet, more or less, to the East boundary line of said Lot 2; thence North 0°31' East a distance of 130 feet to the Point of Beginning.

Also excepting therefrom all that portion of said land conveyed to the State of Nevada for Highway purposes 80 feet in width, by Deed September 18, 1934, and recorded September 19, 1934 in Book T of Deeds, Page 553, Douglas County, Nevada records.

Continued on next page



LEGAL DESCRIPTION - continued
Order No.:030503592

Assessors Parcel No. 1418-34-201-004

Reference is hereby made to that certain Record of Survey for Eugene White, recorded June 11, 1998 in Book 698, Page 2640, as Document No. 441751, Official Records.

"IN COMPLIANCE WITH NEVADA REVISED STATUTE 111.312, THE HEREIN ABOVE LEGAL DESCRIPTION WAS TAKEN FROM INSTRUMENT RECORDED FEBRUARY 10, 1999, BOOK 0299, PAGE 2262, AS FILE NO. 0460877, RECORDED IN THE OFFICIAL RECORDS OF DOUGLAS COUNTY, STATE OF NEVADA."

Further excepting any portion of the above described property lying within the bed of Lake Tahoe below the line of natural ordinary high water and also excepting any artificial accretions to the land waterward of the line of natural ordinary high water or, if lake level has been artificially lowered, excepting any portion lying below an elevation of 6,223.00 feet, Lake Tahoe Datum established by NRS 321.595.



COPY

EXHIBIT "B"



F. H. 70

BOOK 2 PAGE 287
15094

318826

1 THIS INDENTURE, made the *17th* day of *December*, 1953,
2 between MRS. CHARLOTTE ZOCHER, a widow, MARIE C. ZOCHER and
3 now known as Marguerite E. Kaades
4 MARGUERITE E. ZOCHER, her daughters, all of the City of Reno,
5 County of Washoe, State of Nevada, parties of the first part,
6 and LYLE W. KELLOGG and MARGUERITE C. KELLOGG, his wife, both of
7 the City of San Marino, County of Los Angeles, State of California,
8 parties of the second part, as joint tenants,

9 **WITNESSETH:**

10 That the said parties of the first part, for and in con-
11 sideration of the sum of TEN DOLLARS (\$10.00), lawful money of the
12 United States, to them in hand paid by the said parties of the
13 second part, the receipt whereof is hereby acknowledged, do by
14 these presents grant, bargain, sell and convey unto the said
15 parties of the second part, with right of survivorship and to the
16 survivor of them, or either of them, as joint tenants and not as
17 tenants in common, their assigns, and to the heirs and assigns
18 of the survivor thereof, all that certain lot, piece or parcel of
19 land situate, lying and being in the County of Douglas, State of
20 Nevada, and particularly described as follows, to-wit:

21 Beginning at a point on the east boundary line of
22 Lot 2, Section 34, Township 14 North, Range 16 East,
23 M.D.B.M., said point being South 0°31' west 982.075
24 feet from the northwest corner of said Lot 2; thence
25 North 89°53' West along the north line of the original
26 parcel; said parcel being more fully described in that
27 certain deed recorded in Book "3" of Deeds, page 305,
28 records of Douglas County, Nevada, a distance of
29 498.80 feet, more or less, to a point on the easterly
30 right of way line of U. S. Highway No. 50; thence
southerly along said easterly right of way line to a
point on the south line of the aforementioned original
parcel; thence South 89°53' East, along said South
line a distance of 462.67 feet, more or less, to the
east boundary line of said Lot 2; thence North 0°31'
East a distance of 130 feet to the point of beginning,
being that portion of the premises described in that
certain deed recorded in Book "5" of Deeds, page 305,
records of Douglas County, Nevada, lying east of U.S.
Highway, No. 50.

*Lot 6 of Lot 2 of Sec 34 - T. 14. R. 16 N.
lying East of U.S. 50.*

BOOK 2 PAGE 287
15094



BOOK

150001
2 PAGE 288

137

1 Together with all and singular the tenements, heredita-
2 ments and appurtenances thereunto belonging or in anywise apper-
3 taining, and the reversion and reversions, remainder and remainders,
4 rents, issues and profits thereof, including the perpetual right
5 in parties of the second part to construct and maintain an under-
6 ground water pipe line, water pump and appurtenant fixtures, upon
7 certain adjoining real property belonging to parties of the first
8 part, which said adjoining real property lies between the property
9 hereby conveyed and the shore line of Lake Tahoe, for the purpose
10 of permitting parties of the second part, and their successors in
11 interest, to secure water from Lake Tahoe and transmit the same
12 across the property of parties of the first part to the property
13 hereby conveyed, said pump to be erected and maintained at some
14 location satisfactory to parties of the first part, and said pipe
15 line to be routed over the shortest possible distance from said
16 pump to the property hereby conveyed, without, however, in any
17 way interfering with or running under or through any buildings or
18 other improvements presently located upon said adjoining real pro-
19 perty of parties of the first part, said right to maintain said
20 pipe line, pump and appurtenant fixtures to be perpetually appur-
21 tenant to the property hereby conveyed.

22 TO HAVE AND TO HOLD, all and singular the said premises,
23 together with the appurtenances, unto the said parties of the second
24 part, with right of survivorship and to the survivor of them, as
25 joint tenants and not as tenants in common, their assigns, and to
26 the heirs and assigns of the survivor thereof forever.

27 PROVIDED ALWAYS, and this conveyance is made subject to
28 the perpetual covenant and restriction that no part or portion of
29 the real property covered hereby shall at any time hereafter be
30 used for the sale of intoxicating liquor or for the conduct of any

S. BART W. ROBINSON
ATTORNEY AT LAW
1000 W. WASHINGTON STREET
RENO, NEVADA

BOOK

150001
2 PAGE 288



COPY

SEAL

CERTIFIED COPY

The document to which this certificate is attached is a full, true and correct copy of the original on file and of record in my office.

DATE: 1/25/07

Barbara J. Griffin, Clerk of the 9th Judicial District Court of the State of Nevada, In and for the County of Douglas,

By [Signature] Deputy



BK- 0107
PG- 8812