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Findings of Fact, Conclusions of Law and Judgment

**Title of Document** (required)

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Affidavit of Death – NRS 440.380(1)(A) & NRS 40.525(5)

Judgment – NRS 17.150(4)

Military Discharge – NRS 419.020(2)

Signature

Maxwell B. Glasson, Esq.

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DATE 11-29-16

FILED

1 Case No.: 16-SC-00 19

BOBBIE R. WILLIAMS Clerk of Court of the State of Nevada, in and for the County of Douglas

16 NOV 28 AM 11:19

By [Signature] Deputy

TAHOE TOWNSHIP JUSTICE COURT  
[Signature]  
CLERK

IN THE TAHOE JUSTICE COURT  
COUNTY OF DOUGLAS, STATE OF NEVADA

9 RAMONA CROKE,  
10 Plaintiff,

11 Vs.

)  
)  
) FINDINGS OF FACT, CONCLUSIONS OF  
) LAW and JUDGMENT

12 CASTLE ROCK HOMEOWNERS ASSOCIATION )  
13 OF ROUNDHILL a Non-profit )  
14 Cooperative Association and KGDO )  
15 HOLDING COMPANY, a Nevada )  
16 Corporation and TERRA WEST )  
17 COLLECTIONS GROUP, LLC, )  
18 Defendants. )

19 BE IT REMEMBERED that this small claims case came on regularly  
20 for trial on November 22, 2016. Plaintiff was present and defendants  
21 were present through their counsel, Donna Zanetti, Esq. Plaintiff and  
22 Mike Croke provided testimony. All parties provided documentary  
23 evidence without objection. The matter was submitted to the court for  
24 decision.

25 FINDINGS OF FACT

- 26 1. Plaintiff owns a home in the Castle Rock Subdivision. She and
- 27 defendants dispute the amount of charges that may or may not be
- 28 owed to defendants of Homeowner Association charges.
- 2. In the course of attempting to resolve this dispute, plaintiff
- personally contacted agents of the defendants and/or
- defendants' agents personally contacted the plaintiff.

- 1 3. During the course of these conversations, defendants' agent  
2 advised plaintiff to the effect that "You lost your house" and  
3 "If you cannot afford to pay us, your house will belong to us".  
4 4. Plaintiff asserts that defendant's agent's inappropriate advice  
5 was harassing and bullying and caused her to suffer general  
6 damages of 2,500.00.  
7 5. The named defendants are not debt-collection agencies.

8 CONCLUSIONS OF LAW

- 9 1. The Court must examine the credibility of the witnesses from  
10 the manner of their testimony, the relationship between the  
11 parties and witnesses, his or her fears, motives, interests or  
12 feelings, his or her opportunity to have observed the matters  
13 to which he or she has testified, the reasonableness of his or  
14 her statements and the strength or weakness of his or her  
15 recollections.  
16  
17 2. If the Court believes that a witness or party has been  
18 untruthful or exaggerated his or a material fact in the case,  
19 the Court may disregard the entire testimony of that witness or  
20 any portion of his or her testimony, which is not provided by  
21 other witnesses.  
22  
23 3. Plaintiff has the burden of proving damages to a preponderance  
24 of the evidence. Defendant has the burden of providing evidence  
25 to overcome any legal presumption.  
26  
27 4. The named defendants are not debt collection agencies or are  
28 otherwise exempt from the provisions of NRS Chapter 649.

1 5. Defendants filed a motion to dismiss for lack of subject matter  
2 jurisdiction, claiming that plaintiff's action is barred by the  
3 provisions of NRS 30.310, et seq. Defendant's motion was denied  
4 as being untimely<sup>1</sup> and for the reason that plaintiff's small  
5 claims action does not involve the interpretation, application  
6 or enforcement of any covenants, conditions or restrictions  
7 applicable to residential property or any bylaws, rules or  
8 regulations adopted by an association or the procedures used  
9 for increasing, decreasing or imposing additional assessments  
10 upon residential property. This case involves defendants'  
11 agents' alleged intentional infliction of emotional distress to  
12 plaintiff by lying, intimidating, harassing and bullying over  
13 the telephone.  
14

15  
16 6. In Nevada, it is presumed that a person intends the ordinary  
17 consequences of that person's voluntary acts. NRS 47.250(2).  
18

19 7. It is foreseeable that by falsely and fraudulently representing  
20 to plaintiff that she has lost her home, plaintiff could suffer  
21 emotional distress.  
22

23 8. To establish intentional infliction of emotional distress,  
24 plaintiff must establish that she was subjected to extreme and  
25 outrageous conduct with either (1) the intention of, or  
26 reckless disregard for, causing emotional distress, or (2) the  
27

28  

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<sup>1</sup> RJCR 9.

1 plaintiff's having suffered severe or extreme emotional  
2 distress. Plaintiff must also prove actual or proximate  
3 causation. *Star v. Rabello*, 97 Nev. 124 (1981).

4  
5 9. Plaintiff has established her case to a preponderance of the  
6 evidence.

7 10. Plaintiff has been generally damaged by defendants in the  
8 amount of \$1,000.00.

9  
10 JUDGMENT

11 NOW, THEREFORE, judgment shall be entered in favor of the  
12 plaintiff for \$1,000.00, plus costs.

13 Dated this 23 day of November 2016.

14  
15 

16 \_\_\_\_\_  
17 RICHARD GLASSON, Judge  
18 Tahoe Justice Court