Schumacher-Cookman v. Schumacher

Findings after trial (2023)

Minnesota District Court, Seventh Judicial District

56-CV-18-1954 | September 25, 2023

IN THIS EDITION

Complete court order and memorandum

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STATE OF MINNESOTA — IN DISTRICT COURT

COUNTY OF OTTER TAIL — SEVENTH JUDICIAL DISTRICT

Cecilie Schumacher-Cookman,
DuWayne Cookman,
Plaintiffs,
vs.
Lorene Schumacher,
Defendant.

Court File No. 56-CV-18-1954
FINDINGS OF FACTS, CONCLUSIONS OF LAW, AND ORDER

On June 8, 2023, the above-entitled matter came on for trial before the undersigned Judge of District Court, at the Otter Tail County Courthouse in Fergus Falls, Minnesota. Attorney Ryan Fullerton appeared on behalf of Plaintiffs DuWayne Cookman and Cecilie Schumacher-Cookman. Attorney Brian Toay appeared on behalf of Defendant Lorene Schumacher.

Based upon the information provided at trial, exhibits, and documents in the file, the Court HEREBY MAKES THE FOLLOWING:

FINDINGS OF FACT

Procedural Background

1. Plaintiffs Cecilie Schumacher-Cookman and DuWayne Cookman are married. Cecilie Schumacher-Cookman is the daughter of Defendant Lorene Schumacher.

2. Plaintiffs commenced the case in 2018 and alleged breach of contract, promissory estoppel, and unjust enrichment in their Complaint.

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3. Defendant's Answer and Counterclaim noted she was seeking declaratory relief that the Plaintiffs have no right or interest in the subject property and alleged slander of title arising from alleged misstatements regarding the property.

Factual Findings

4. Lorene and her husband acquired the property on Rose Lake in Otter Tail County, Minnesota ("Rose Lake Property") in the 1970s.

5. The Rose Lake Property is located off a private road that Lorene does not own. Access to Rose Lake Property is granted to Lorene through an easement allowing access to the Rose Lake Property through the private road.

6. Lorene owns Rose Lake Property as a retirement asset.

7. In 1997, Lorene and her children sat down for a meeting. Lorene offered to gift each of her children a lake lot. At the time, the individuals believed the lot was 10 acres. It was thought she could subdivide the property.

8. There was a discussion about the parameters of the lots the children might have. Since there were five children, it was believed that each child could have about two acres.

9. Lorene wanted the property to be used, not sold off. Lorene noted the meeting was to let her children have the chance to have the lot before she sold lots. If the children wanted a lot, they were to let her know.

10. Cecilie testified she believed there were two conditions, including that they were supposed to build on the property and that they had to utilize it regularly.

11. Lorene, Charlene Nelson, Tory Westrum, and Curt Schumacher all testified that building on the property was not required if it were gifted. The Court finds this testimony credible.

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12. Several children were interested in obtaining one of the subdivided lots, including Curt Schumacher and the Plaintiffs.

13. In 1998, Lorene tried to subdivide Rose Lake Property and was told by the township that she would need a variance to subdivide the property. Cecilie noted that she knew Lorene would attend a meeting for the Board of Adjustment, and she offered to go with Lorene. Cecilie did not help Lorene fill out or file the variance application.

14. At the next family meeting, Lorene explained to her family she could not subdivide the property and give them their own lots. Lorene was prohibited from subdividing the property as she did not own the road accessing the property and could not obtain a variance.

15. Cecilie noted that the variance board turned Lorene down but believed that Lorene was still trying to get a variance or buy the road from neighbors. Cecilie knew the road was not owned but that Lorene had an easement to use the road.

16. DuWayne asked if they could build a garage on the property. Lorene told him that if they were to build a garage on the property, then Lorene would own a garage. Ultimately, Lorene allowed the plaintiffs to construct a garage.

17. Plaintiffs preferred a portion that previously had a dance hall on the property in 1974 or 1975 because there was a garden down the hill and Cecilie had memories.

18. In the fall of 1998, the plaintiffs built a 32 by 48 garage with half used as a cabin. Cecilie noted she was apprehensive about building on the property. It has amenities such as a washer and dryer, water softener, TV, wifi, and stove. The plaintiffs wanted to build a home there to retire. The building was completed in 2001. They put in a well and a septic system.

Source PDF page 4

19. The plaintiffs assert their property was based on a mow line and some property features, such as a hill. Plaintiffs had asked Lorene if they could have more land or extend the area, such as moving the mow line farther, but Lorene said no.

20. There have been several surveys which depict similar boundaries however, the mow line had been moved.

21. After 1998, plaintiffs intermittently asked about subdividing the property because they wanted to continue building. They wanted to move a different house onto the property, but Lorene thought it was an eyesore, so the Plaintiffs did not move that house onto the property. DuWayne didn't think he needed permission, but he knew he would need a permit to move the house, and the property was not in their name.

22. Cecilie believed she learned the property was less than 10 acres in 2015 when the updated survey was filed at the Recorder's office.

23. Several improvements were made to the property: mowing, planting trees, building the garage, spraying for worms, putting in a well, septic, and a dock.

24. The Plaintiffs have used the property over the past 25 years. They have had gatherings, graduation parties, birthdays, holidays, summer vacations, gardens, fruit trees, and have spent weekends at the property.

25. Lorene would come to the property when the Plaintiffs invited her.

26. In approximately 2009, Lorene was planting trees and learned from a surveyor that she did not own 10 acres. They asked him to survey the property and section to explore subdividing it. If Lorene could subdivide the property at that time, she would provide a lot to the plaintiffs.

27. It was learned that Rose Lake Property was a little larger than 7 acres.

Source PDF page 5

28. In 2011, the Defendant's other daughter, Charlene, emailed the Plaintiffs because she wanted to see if there was insurance on the cabin. This contact was initiated to assist Lorene in refinancing the property. In the email exchange, DuWayne states, "I think the acre or what your mom had decided on should be signed over to Cecilie and the cabin not be a part of this action. We have been paying ½ the taxes (on the full property) and all the insurance, so you can take it, not happy. How much will it cost to buy the cabin and the acre it is sitting on, so we can get it in writing and it is separate from what you are doing, and how soon do you need the money?" (Exhibit 13)

29. Charlene responded with "We are not trying to do anything to change yours and Cecilie's situation at the lake. Mom wants you to be there forever and hopefully soon build a house. That's what we are kind of waiting for – you to build a retirement/permanent home at the lake. Is there any way you could volunteer this info on the insurance cost?" (Exhibit 13).

30. Charlene testified she did not know her mom's desires when she sent the email. Charlene sent the email because she was trying "to coerce him to provide proof of insurance on the building" so her parents could finish refinancing the mortgage on their home.

31. Charlene has a mortgage on the Rose Lake Property for approximately $282,000. (Exhibit 14).

32. The plaintiffs paid roughly half of the property taxes until 2018 when there was a dispute because Lorene put the property up for sale.

33. In 2016, Lorene allowed the plaintiffs to look into finding a solution to subdivide the property.

Source PDF page 6

34. Glenn Howe completed a survey of the Rose Lake property in 2013. Glenn Howe testified that because Lorene did not own the road leading to the Rose Lake Property, Otter Tail County would not allow her to subdivide the property. The Court finds this testimony credible and consistent with Lorene's testimony regarding the impossibility of subdividing the lot.

35. From 2016 to 2018, Cecilie noted difficulty with trying to subdivide the property because she was trying to find different ways to do so. Lorene was diagnosed with cancer, and her father's health deteriorated. Cecilie noted her loyalties went toward her parent's health.

36. Cecilie noted that while she was trying to find a way to subdivide the property, she wanted the information that her sister Charlene and Lorene already knew and would work from there. Specifically using what Anderson Surveying found because she noted Charlene and Lorene never shared such information. Cecilie stated that she never asked for information; she did not know the information was being obtained because the information was gathered in secret, behind her back.

37. In 2018, Lorene listed the property for sale.

38. Lorene wanted the property to be her retirement but has been unable to sell the property due to this action.

39. In July 2018, Cecilie learned that Lorene was looking to sell the property and that Lorene was talking to a realtor. Cecilie noted, "they've talked about things in the past, but never done anything…" Cecilie said she thought, "it was another, another ruse. Something that they were just mulling over…"

Source PDF page 7

40. In response to the property being listed for sale, Cecilie wrote on the other side of a "no trespassing" sign that the property belonged to the plaintiffs and provided Cecilie's phone number. The plaintiffs then tacked the sign to the building on the property.

41. Lorene has never prohibited Plaintiffs from being at the property. Plaintiffs have had uninterrupted use of the property for 25 years. Exhibits demonstrate tracks across the entire property, not just the mowed areas. DuWayne had testified they would access the other portions of the property but not as often as within the mowed lines. Exhibit 27 shows worn-in tracks that make a loop from the Plaintiffs mowed area and go through the un-mowed sections on the rest of the property. Exhibit 27 further shows a vehicle parked just beyond the mowed portion of the property. Page 23 of 25 of Exhibit 28 shows two four-wheelers being driven beyond the Plaintiff's mow line.

42. The Court received no testimony regarding the size of the alleged gifted property other than "an acre or two." No evidence was presented regarding such things as lakefront frontage, which would adequately define the size of the lot in relation to the lake itself.

CONCLUSIONS OF LAW

I. Legal Standard

43. In Minnesota, courts apply two different evidentiary standards: a preponderance of the evidence or clear and convincing evidence. *Vermillion State Bank v. Tennis Sanitation, LLC.*, 969 N.W.2d 610, 626 (Minn. 2022). *See also, Christie v. Estate of Chirstie*, 911 N.W.2d 833, 838-39 (Minn. 2018).

44. An oral contract for the sale of land requires a clear and convincing evidence standard "because land has a 'special status' in the law compared to other forms of property, and Source PDF page 8 Minnesota has 'a statute of frauds that imposes safeguards on contracts for the sale of land." *Vermillion*, 969 N.W.2d at 627 *citing Christie*, 911 N.W.2d at 839-40.

45. The clear and convincing standard requires “the truth of the facts asserted is ‘highly probable.’” *Vermillion*, 969 N.W.2d at 626. *Citing Weber v. Anderson*, 269 N.W.2d 892, 895 (Minn. 1978).

II. Breach of Contract

46. “The formation of a contract requires communication of a specific and definite offer, acceptance, and consideration.” *Commercial Associates, Inc. v. Work Connection, Inc.*, 712 N.W.2d 772, 782 (Minn. App. 2006). *See also Pine River State Bank v. Mettille*, 333 N.W.2d 622, 626-27 (Minn. 1983).

47. “The formation of a contract requires communication of a specific and definite offer, acceptance, and consideration.” *Commercial Assocs., Inc. v. Work Connection, Inc.*, 712 N.W.2d 772, 782 (Minn. App. 2006). “Every contract…for the sale of any lands, or any interest in lands, shall be void unless the contract,…expressing the consideration, is in writing and subscribed by the party by whom the …sale is to be made…” Minn. Stat. § 513.05.

48. In 1997, Lorene sat down with her children for a meeting and offered to gift each of her children a lake lot. There is disagreement as to whether and what conditions were placed. Whether there were conditions or not, it is clear that at the time Lorene wanted to gift her children with a lake lot if she was able. Several children expressed an interest in obtaining a lake lot; all the parties believed the Rose Lake Property was ten acres, and the children thought they would have an acre or two.

Source PDF page 9

49. “A contract consists of a binding promise or set of promises.” *Lyon Fin. Services, Inc. v. Illinois Paper & Copier Co.*, 848 N.W.2d 539, 543 (Minn. 2014). “Minnesota follows the objective theory of contract formation, under which the parties’ outward manifestations are determinative, rather than either party’s subjective intent.” *Riley Bros. Constr., Inc. v. Shuck*, 704 N.W.2d 197, 202 (Minn. App. 2005).

50. Several outward manifestations prevent a breach of contract claim because there was no contract. At another family meeting in 1998, Lorene informed her children that she could not subdivide the property because she could not get a variance and could not buy the road from the neighbors. Lorene told her children she could not gift the property. DuWayne asked what would happen if he and Cecile built a garage on the property, and Lorene responded that she would own a garage. Lorene notified the children she could no longer gift the property and that if plaintiffs were to build the garage, it would be hers because she could not subdivide the property. Lorene’s outward manifestations were clear to her children as two of her children testified this was the case, and this Court finds their testimony credible.

51. The Court finds the Plaintiff's testimony regarding the requirement to build at the property not credible. Testimony from several other witnesses conflicts with this alleged requirement, and the Court finds this testimony credible. Also, DuWayne inquiring about building a garage after being informed that the property could not be subdivided further showed the knowledge and intent of the parties.

52. Further, the Court finds that there was no consideration for the alleged contract as the Court does not find that Lorene required any party to build on the property in order to receive the gift.

Source PDF page 10

53. There is no clear and convincing evidence there was a contract because it is not highly probable there was a contract or agreement for the property to be given. There was a promise that Lorene could provide the children with lots, but it is not highly probable such conditions existed, which plaintiffs believed, such as the conditions to build to obtain the property.

III. Promissory Estoppel

54. There are three elements required for Promissory estoppel. They include (1) a clear and definite promise, (2) whether the promisor intended to induce reliance and such reliance occurred, and (3) whether the promise must be enforced to prevent injustice. *Ruud v. Great Plains Supply, Inc.*, 526 N.W.2d N.W.2d 369, 372 (Minn. 1995). "Promissory estoppel is not a substitute for acceptance, consideration, or mutuality..." *Olson v. Synerygistic Technologies Business Systems, Inc.*, 628 N.W.2d 142, 151 (Minn. 2001). *Citing Constructors Supply Co. v. Bostrom Sheet Metal Works, Inc.*, 291 Minn. 113, 120 (1971).

55. It is clear to this Court Lorene wanted her children to enjoy the lake property including the Plaintiffs. Lorene thought about the children when she originally sat them down in 1997 to inform them that she wanted to gift any and all of them property, that they should let her know if

they were interested, and that she wanted them to use the property instead of selling it right away. Lorene probably wanted the children to enjoy the lake property because though she informed the children she could not gift lots and that if the Plaintiffs were to build a garage, then she would own a garage, she still allowed the Plaintiffs to build a garage/cabin on the property. Lorene clearly wanted her children to have lots and Source PDF page 11 enjoy the lake property because for the approximate 25 years Plaintiffs were on the property, Lorene only entered the space Plaintiffs occupied if she was invited.

56. It is not highly probable Lorene intended to induce reliance and such reliance occurred as Lorene informed DuWayne that if he built a garage on the property, she would own the garage. Lorene also told the children she could no longer gift lake lots and only one of the several children who were interested built on the property or expressed interest after Lorene informed them she could no longer gift a lake lot. There was reliance by the Plaintiffs as they built upon the property, mowed in an area they believed would be their lot, grew fruit trees, gardened, and occupied for around 25 years.

57. Plaintiffs have also heard throughout the 25 years that Lorene might sell the property. Cecile testified, “they’ve talked about things in the past, but never done anything…” and that “it was another, another ruse. Something they were just mulling over…”

58. The third element of a promise being enforced to prevent injustice is not met in this case. Plaintiffs built a garage, gardened, mowed, and planted fruit trees; they did not need to nor were they induced to by the actions of Lorene. The Plaintiffs were able to use the property for many years.

59. Plaintiffs improved the property for their own benefit for the time they occupied the property. Plaintiffs testified they have had gatherings, graduation parties, birthdays, holidays, summer vacations, gardens, fruit trees, and weekends out at the property, and other evidence shows such family gatherings included swimming, boating, and riding ATVs around the property. Tire tracks and photos from the Plaintiff's exhibits show four-wheelers and tire tracks beyond Plainttiff’s mow line. Lorene came to the property when the Plaintiffs invited her. To grant the property or the value of the cabin based on the Source PDF page 12 Plaintiffs ' appraisals is not preventing injustice because Plaintiffs have used the property with the knowledge they did not own the property for around 25 years, where they have created so many family memories, and with the understanding that Defendant wanted to sell several times during that time. Plaintiffs have benefitted from their own improvements on the property, and injustice would not occur if their requests were not granted.

IV. Unjust Enrichment

60. For unjust enrichment, a plaintiff must show "another party knowingly received something of value to which he was not entitled, and that the circumstances are such that it would be unjust for that person to retain the benefit." *Schumacher v. Schumacher*, 627 N.W.2d 725, 729 (Minn. App. 2001). Unjust enrichment requires more than a party benefiting from the efforts of another; the party must be "unjustly enriched in the sense that the term 'unjustly' could mean illegally or unlawfully." *Id. Citing First Nat'l Bank of St. Paul v. Ramier*, 311 N.W.2d 502, 504 Minn. 1981). "[U]njust enrichment may be found where a plaintiff's conduct 'has been unconscionable by reason of a bad motive, or were the result induced by his conduct will be unconscionable either in the benefit to himself or the injury of others.'" *Park-Lake Car Wash, Inc. v. Springer*, 394 N.W.2d 505, 514 (Minn. App. 1986) *citing Earle R. Hanson & Associates v. Farmers Cooperative Creamery Co.*, 403 F.2d 65, 70 (8th Cir. 1968). *See also Johnson v. Freberg*, 228 N.W. 159, 160 (Minn. 1929).

61. This Court finds that the Defendant was not unjustly enriched because she was not enriched in a sense that was illegally or unlawfully enriched. The plaintiffs have made various improvements to the property, paid a portion of property taxes (after property Source PDF page 13 value increased due to building on the property), and paid insurance on the cabin, which benefits Lorene if she sells the property. Lorene was not enriched because she informed DuWayne that if he were to build a garage on the property, she would own the garage, which put the Plaintiffs on notice that any improvement they made could become Lorene's property. The Plaintiffs took the risk of improving the land with the hopes that the land would be able to be transferred to them in the future. The fact that the property transfer did not take place and the improvements fell to Lorene is through no fault or responsibility of Lorene. While Lorene may not have paid all the taxes, the taxes increased due to the Plaintiff's building at the lake. For 25 years, Plaintiffs have used the property for their benefit and use, not Lorene's.

62. The Court finds that none of the actions of Lorene were based on a bad motive nor were actions unconscionable to the benefit of herself.

63. Due to all of the above, the Court cannot find that Lorene has been unjustly enriched.

V. Statute of Limitations

64. The statute of limitations applies when the action accrues. Minn. Stat. § 541.01. An action accrues when there are "sufficient facts to survive a motion to dismiss for failure to state a claim upon which relief can be granted." *Sec. Bank & Trust Co. v. Larkin, Hoffman, Daly & Lindgren, Ltd.*, 916 N.W.2d 491, 496 (Minn. 2018). "[U]pon a contract or other obligation, express or implied, as to which no other limitation is expressly prescribed…" shall be commenced within six years. Minn. Stat. § 541.05 subd. 1(1).

65. *Albachten v. Bradley* notes, "[a]n equitable estoppel is the effect of voluntary conduct whereby a party is precluded from asserting rights of property, contract or remedy …, Source PDF page 14 who in good faith has relied on such conduct and … been led … to change his position for the worse with respect to his rights…" 3 N.W.2d 783, 785 (Minn. 1942).

66. Defendant argues the action accrued when the garage was constructed on the Rose Lake Property. Plaintiffs argue the action accrued in 2016 when Lorene informed Plaintiffs they would need to look into subdividing the property, or in 2018, when Lorene hired a realtor. A claim for the property that could survive a motion to dismiss occurred when a garage was constructed on the property because the Plaintiffs took a substantial step in what they believed was a condition to obtain title to the property.

67. Plaintiffs argue that the Defendant is equitably estopped from asserting the statute of limitations as a defense. "An equitable estoppel is the effect of voluntary conduct whereby a party is precluded from asserting rights..." they otherwise would have had against someone relying in good faith on the voluntary conduct. *Albachten v. Bradley*, 3 N.W.2d 783, 785 (Minn. 1942). “A party invoking equitable estoppel must establish: (1) conduct amounting to a representation or concealment of material facts that are (2) known to the party estopped and (3) unknown to the party claiming the benefit of the estoppel, and (4) the conduct is done with the intent or expectation that the party would act on it, and (5) the party does act on it (6) to his detriment.” *SN4, LLC v. Anchor Bank, fsb*, 848 N.W.2d 559, 569 (Minn. App. 2014). *Citing Lunning v. Land O’Lakes*, 303 N.W.2d 452, 457 (Minn. 1980).

68. Plaintiffs argue Lorene never informed them that she could not subdivide the property and, as such, give them the lake lot until 2016, when she told them they could look into subdividing the property. Cecile testified she relied on the statements from her mom that Source PDF page 15 she was "looking into it." Plaintiffs note the 2011 email exchange with Charlene supports their reliance. Lorene did have the surveyor look into sectioning the property in 2009 in case she could ever actually subdivide the property. This Court does not find Cecile’s testimony to be credible in this regard because both Plaintiffs knew they did not own the property. Cecilie testified they were apprehensive because they knew they did not own the property. Though Lorene looked into subdividing the property and Charlene represented facts differently, it does not mean Lorene concealed material facts. Lorene informed her family she could no longer subdivide the property and gift lots.

69. Lorene informed the family and the Plaintiffs that she could no longer subdivide the property and, as such, gift lots to the children in 1998. The Plaintiffs knew it because DuWayne had then asked what would happen if he built a garage. Cecilie testified she believed Lorene was still looking into subdividing the property. While Cecilie may have believed that to be true, the Court finds that no actions by Lorene would have reasonably led the Plaintiffs to that belief. No actions were presented to the Court to demonstrate that Lorene concealed any material facts from the Plaintiffs.

70. Therefore, in addition to the Court's analysis of the case on its merits, the Court finds that the Plaintiff's claim fails due to the Statute of Limitations. Evidence presented to the Court indicates that the Plaintiffs were well aware of their lack of property ownership before 2012, and therefore, their claims are barred.

VI. Slander of Title

71. Slander of title requires (1) a false statement concerning the real property, (2) the false statement was published to others, (3) the false statement was published maliciously, and (4) the publication of the false statement concerning title to the property caused pecuniary Source PDF page 16 loss in the form of special damages. *Paidar v. Hughes*, 615 N.W.2d 276, 279-80 (Minn. 2000). Slander of title "is not an action for defamation in any proper sense, but an action to recover as damages the pecuniary loss sustained in consequence of a malicious and groundless disparagement of the plaintiff's title or property." *Quevli Farms of Lakefield v. Union Sav. Bank & Trust Co. of Davenport, Iowa*, 226 N.W. 191, 192 (Minn. 1929).

72. If someone files "for record an instrument which he has a right to file, ...[they commit] no wrong." *Kelly v. First State Bank of Rothsay*, 145 Minn. 331, 332 (1920). "Filing a document known to be inoperative constitutes a false statement." *Id.* In *Brickner*, one of the parties filed an adverse claim against property that he knew he no longer had an interest in, and the element of publication was satisfied by filing notice of the adverse claim. 742 N.W.2d 706, 711 (Minn. App. 2007).

73. The element of malice requires '[r]eckless disregard concerning the truth or falsity of a matter... despite a high degree of awareness of probable falsity or entertaining doubts as to its truth.'" *Brickner,* 742 N.W.2d at 711-12 (Minn. App. 2007) *Citing Contract Dev. Corp. v. Beck*, 627 N.E.2d 760, 764 (1994).

74. Statements, even "false and malicious, are not actionable unless they resulted in pecuniary loss" *Quevili Farms of Lakefield*, 226N.W. at 192. "Attorney fees incurred as a result of a slander of title are considered special damages." *Brickner*, 742 N.W.2d at 711.

75. There was not slander of title in this case. There were false statements concerning the real property owned by Lorene as Cecile wrote on the side of a sign that the property belonged to her and DuWayne and their phone number. The Plaintiffs also filed a Lis Pendens action on the property. Though Plaintiffs knew they did not own the property, the Court finds that the Plaintiffs, in good faith, believed they had an actionable claim Source PDF page 17 and interest in the property. The fact that this Court has not found in their favor does not preclude a finding that the action was brought in good faith and therefore a denial of a claim of Slander of Title is appropriate.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, and on all documents and papers herein, IT IS HEREBY ORDERED

1. Plaintiff's claim for Breach of Contract is **DENIED.**

2. Plaintiff's claim for Promissory Estoppel is **DENIED.**

3. Plaintiff's claim for Unjust Enrichment is **DENIED.**

4. Plaintiff's claims are **DENIED** due to the Statute of Limitations.

5. Defendant's claim for Slander of Title is **DENIED**.

IT IS SO ORDERED.

Dated: 9/25/23
Court File No. 56-CV-18-1954

BY THE COURT:

Kevin M. Miller
Judge of District Court

Exhibit A

That part of Government Lot Eight (8) in Section Twenty (20), Township One Hundred Thirty-Seven (137) North, Range Forty (40) West of the Fifth Principal Meridian in Otter Tail County, Minnesota, described as follows:

Commencing at a found iron monument which designates the Southeast corner of said Section Twenty (20); thence North 00°41'21"West, on a record bearing along the East line of said Section Twenty (20) for a distance of 2,056.04 feet to a found iron monument on the westerly line of an existing public road; thence southerly along said westerly line on a Source PDF page 18 non-tangential curve concave to the East, having a central angle of 48°33'04" and a radius of 123.00 feet, for an arc length of 104.23 feet (chord bearing South 21°25'28" West); thence South 02°51'04" East continuing along said westerly line for a distance of 83.17 feet; thence South 89°01'41" West for a distance of 643.03 feet to the point of beginning; thence continuing South 89°01'41" West for a distance of 344.55 feet; thence North 10°40'39" East for a distance of 245.68 feet, more or less, to the water's edge of Rose Lake; thence easterly along the water's edge of said Rose Lake to the intersection with a line which bears North 07°33'14" West from the point of beginning; thence South 07°33'14" East for a distance of 236.40 feet, more or less, to the point of beginning. The above-described tract contains 70,500 square feet, more or less.

TOGETHER WITH an easement for roadway purposes as described in Document No. 1177994 recorded on August 2, 2016, in the office of the Recorder in said County.