

EXHIBIT D

Glenda E. Johnson
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PLAINTIFF
Pro Se Plaintiff

**IN THE FOURTH DISTRICT COURT
FOR MILLARD COUNTY, UTAH**

^{SON}
Glenda E. Johnson
Plaintiff

**OPPOSITION TO PLAINTIFF'S
MOTION FOR SUMMARY JUDGMENT
signed version of this declartion**

vs.

**Case No. 200700008 LM
Judge ANTHONY HOWELL**

Wings West LC
Defendants

This is the signed version

Rule 11(a)(3) Unsigned paper will be stricken unless omissions of signatures is corrected prompley after being called to the attentiion of the attorney or party .

The mechanic's lien filed by Glenda is scheduled for oral argument on summary judgment on August 5th at . In response to the motion Glenda's argument is as follows:

Prior to August 1, 2011 U.C.A. 38-1-5 outlines mechanics lien priority was as follows:

The liens herein provided for shall relate back to and take effect as of the time of the commencement the to do work or furnish material on the ground or the structure or improvement and shall have priority over any lien, mortgage, or other encumbrances which may have attached sequentially to the time when the building or improvements or structure was commenced work began or first material was furnished on the ground.

See, Penalton v. Rymark, 2015 UT App 29, ¶9.

For the lien covering work that justifies Glenda's filing, the project in question did not require a

preliminary notice because the work involved in the lien was prior to August 1, 2011.

All of the information that was requested by Mr. Dunn was given to him on a thumb drive. Mr. Dunn has never contended that any information contained on the thumb drive was inadequate nor defined what extra information was needed or required.

There is no proof of a stop notice being given, and in fact there was never a stop notice given to Glenda to stop work on the project.

Even if there are issues with the lien, the law of "offset" allows an otherwise barred claim to be used to defend against liability.

A preliminary notice is something added to Utah law long after the work began in this matter. When the work was done beginning in January 4, 2004, the lien rights vested under the then existing law. Any work done before the statute requiring a preliminary notice cannot be affected by the change in law. Therefore, since the project began before the law changed on August 1, 2011, no preliminary notice was required or can be required.

Work performed was and is considered much greater than the \$9 million asked for in the previous mechanics lien not including interest. The work was and is ongoing. There was not, and I have not received, a stop notice at any time for the project. Mechanics lien statute requirement to file must be filed 180 days after stop notice is received. My notice against project has been legally filed on the project in question. Filing date therefore was within the time required by mechanics lien statutes.

Therefore, the time to File was met.

In July 2018 Mr. Nelda Johnson resigned from Solstice LLC. Upon his resignation solstice voluntarily was dissolved. Partners Neldon Johnson Lagrand Johnson had Randy Johnson each owned one third of the properties and contracts owned by Solstice LLC. This would give the LaGrand Johnson and Randy Johnson two thirds ownership and combined control over the property and contracts.

XSun was a wholly-owned subsidiary of Solstice LLC. XSun is now owned by Neldon Johnson one third, Lagrand Johnson one third, and Randy Johnson one third. XSun is now controlled by Legrand Johnson and Johnson's two thirds ownerships combine ownership. XSun always allays from IAS on the property in question. A lease was granted in 2011 to XSun. No notice of deficiency has been given by IAS to XSun. Therefore, according to the lease agreement it is still in effect.

No stop notice from XSun has been sent to Glenda E Johnson. I still legally have access to the property. This gives me the right to continue my contract and work.

Also, the equipment required for the project is unique to the project. These parts and supplies were ordered before July 2018. This made the equipment order part of the equipment that would be installed at a later time and shared liability at the time the order was placed. This allowed me to work to complete that equipment off-site for later installations. No preliminary notice required to file mechanics lien on that portion of the project because it was already been established that this project started prior to August 1, 2011. The lease on the property allows access to the property.

As of February 29, 2020, the two controlling partners dissolved XSun and this gave direct control over the lease to Randy Johnson and Lagrand Johnson. No stop notice has been given to Glenda E Johnson

to stop work. The time to file a lien is 180 days after stop notice is received this means that mechanics lien meets all of the statute requirements to be filed.

Mechanics lien met the money amount being asked for no overcharge. The mechanics lien travels with the land. The new owner takes over the property as a successor. That person or entity now becomes first person in relation to contract.

There is nothing in the mechanic lien law that establishes a right to make a person's property rights to become zero without due compensation. Part of the property rights I have is when my property is attacked, I have the right to defend myself using these laws and procedures. This includes an offset allows an otherwise barred claim to be raised to defend against liability this gives the right to file a mechanics lien.

Mr. Dunn is claiming that he has a right to change or completely eliminate all of the property rights and value of that property to zero. I have researched thoroughly mechanics lien statute. There is no indication the statute allows Mr. Dunn to destroy the value of the property in question. Therefore, the property value stands as listed.

Constitution of the United States requires the property can only be taken through due process. It has been shown that the towers are valued at \$250,000 each the Lenes \$3500 each there are 128 lenses per tower. Simple addition adding the towers the number of towers constructed and the number of lenses per tower multiplied by the number of towers construction will equal a minimum of over \$9 million plus interest at 10% was concluded property of over \$40 million. All of this information was contained on a thumb drive given to Mr. Dunn when he asked for it.

Because Mr. Dunn uses previous federal case Civil No. 2:15-cv-00828-DN-EJF in his defense or offense in this particular case I am entitled to a collateral attack those cases. I brought a challenge to that earlier case and have a pending Rule 60b Motion, a Petition for Rehearing in the 10th Circuit Court, and intend to file another Rule 60b motion because of the recent US Supreme Court unanimous ruling in Liu v SEC. I have also shown that the expert witness Mr. Mancini contradicted his testimony in the federal case with testimony before the Tax Court. I have also challenged the federal court's jurisdiction. Mr. Dunn has yet to respond to any of those allegations and claims.

Civil liability the person filing a wrongful lien.

A person who files a wrongful lien is subject to civil penalties. Actual damages caused by the wrongful lien. If the person who filed the wrongful lien receives a written request to remove or correct the lien but refuses to do so within 10 days of receipt of the request they may be liable for \$3000 or three times the actual damages, whichever is greater as well as attorney's fees and costs.

A person is liable to the owner of the real property for \$10,000 or three times the actual damages which is greater and or reasonable attorney fees and costs to record or cause to be recorded a wrongful lien in the office of the county recorder against the real property knowing or having reason to know that the document is; 1) the wrongful lien; 2) is groundless or; 3) contains material misstatements or a false claim. Utah code section 38 - 9 - 203.

I have demonstrated the right to have filed a mechanics lien. I have carefully demonstrated that I have the right to file mechanics liens under the statutes itself. Therefore, the only real reason offered by Mr. Dunn that the lien itself was a wrongful lien is a court order, not a violation of the mechanics statutes.

Because I was a third-party to that court action and did not have the opportunity to litigate any of the arguments presented. I now have a right to argue and litigate those issues that affect me. We have filed in this case a collateral attack against Civil No. 2:15-cv-00828-DN-EJF, they are using in the action taken. Therefore, they could not use the mechanics lien statutes to accuse me of bringing wrongful lien without having some proof that I would have known or could have known that I was not legally able to file mechanics lien. Since we do not know how the courts will rule on the collateral attack that we have filed against the case Civil No. 2:15-cv-00828-DN-EJF, it is impossible for me to know or could have known whether or not my filing a mechanics lien was in fact a wrongful. Nor could anyone else have known or could have known whether or not there was an issue about a wrongful filing of a mechanics lien.

Their defense or offense, in fact that they are using this previous case Civil No. 2:15-cv-00828-DN-EJF as a challenge to my right to file mechanics lien. Because I do not know or could not know how the court will adjudicate my third-party collateral attack against that case it is wasn't possible for me to know that I could not file mechanics lien. In fact there is no way for me to know today whether or not I have had or would have the right file mechanics lien without knowing how the court will react to the collateral attack on that very case that they are quoting as a defense or offense to my right to file the mechanically.

There is not a statute of the mechanics liens that they quote that would allow them to totally annihilate the entire value of the work and the equipment provided on that construction project. They have offered no evidence that suggests they can annihilate the value of the cost of materials and labor that went into the construction project itself. Therefore, the construction project itself still has value at the same price was whether or not when the wrongful lien or about lien. In order for me to be guilty of a wrongful lien they have to demonstrate first but I didn't qualify as some aspect of the mechanics lien statutes. Of which they have presented no evidence that would prevent me from filing mechanics lien from the law itself.

The only reason is that they claim a court order disqualifies me the right to file the mechanics lien. This does not eliminate the value of my work or the material furnished. Therefore, the work and material furnished still has value. It cannot be proven from this statement that the project in question was overcharged, period. To use that element in the mechanics lien statute the charge must begin with that the project was deliberately overcharged.

The Constitution requires under Article III for the existence of standing that the plaintiff must personally have: (1) suffered some actual or threatened injury; and 2) that injury can be fairly traced to the challenged actions of the defendant and; 3) that the injury is likely to be redressed by a favorable decision. Standing conferred when I have suffered "injury in fact" to some interest economic or otherwise that is arguably within the zone of interest to be protected or regulate by the statute or constitutional provision in question. The injury in fact in equal protection case of the variety is the denial of equal treatment resulting from the imposition of the barrier to adjudicating my rights.

FEDERAL COURT CAN'T INTERFERE WITH UTAH MECHANICS LIEN

The federal court does not have standing to change the Utah Mechanic's lien law. Therefore, they cannot determine the amount owed or not owed.

Conclusion:

There is no basis to grant summary judgment against me.

I declare under the penalty of perjury, that the foregoing is true and correct.

Dated this 15 ^{September} day of July, 2020.

Glenda E. Johnson
Glenda Johnson, Plaintiff Pro Se

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CERTIFICATE OF SERVICE

I hereby certify that on July 16, 2020 the foregoing OPPOSITION TO MOTION FOR SUMMARY JUDGMENT was hand delivered and filed with the Clerk of the Court.

I hereby certify July 16, 2020, I served the foregoing OPPOSITION TO MOTION FOR SUMMARY JUDGMENT upon the following by U.S. Mail, first-class postage prepaid.

James T. Dunn P.C.
1108 West South Jordan Prkwy Ste D
South Jordan, UT 84095

Glenda E. Johnson, Pro Se

Glenda E. Johnson

Copy to: Thomas R. Mancini
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Albuquerque, NM 97111