



W2968823

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E# 2968823 PG 1 OF 8
Leann H. Kilts, WEBER COUNTY RECORDER
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REC FOR: PARSONS BEHLE & LATIMER
ELECTRONICALLY RECORDED

**IN THE SECOND JUDICIAL DISTRICT COURT
WEBER COUNTY, STATE OF UTAH**

LINDA BARROW, an individual;

 Plaintiff,

 v.

GARY BARROW

 Defendant

**NOTICE OF PENDENCY OF
ACTION**

Tier II

Civil No. 160907197

Judge Ernie W. Jones

Under Utah Code 78B-6-1303, Plaintiff Linda Barrow hereby gives notice that an action has been commenced in the Second Judicial District Court of Weber County, State of Utah, against the above-named Defendant regarding certain real property located at 6797 West 900 South, Ogden, UT 84404 (the "Property") and more particularly described as follows:

PART OF THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 6 NORTH, RANGE 3 WEST SALT LAKE MERIDIAN, U.S. SURVEY: BEGINNING AT THE NORTHEAST CORNER OF SAID QUARTER SECTION; RUNNING THENCE SOUTH 2170 FEET TO A POINT 470 FEET NORTH FROM THE SOUTHEAST CORNER OF SAID QUARTER SECTION; THENCE SOUTHWESTERLY 800 FEET TO A POINT ON THE SOUTH LINE OF SAID QUARTER SECTION 640 FEET WEST OF THE SOUTHEAST CORNER OF SAID QUARTER SECTION; THENCE WEST 277.37 FEET; THENCE NORTH 1914 FEET; THENCE EAST 300 FEET;

THENCE NORTH 726 FEET; THENCE EAST 617.37 FEET TO THE POINT OF BEGINNING.

Parcel No. 10-034-0011

A copy of the Complaint is attached hereto.

DATED: March 7, 2019.

PARSONS BEHLE & LATIMER

/s/ Sean A. Monson

Sean A. Monson

Attorneys for Plaintiff

BENNETT TUELLER JOHNSON & DEERE
Sean A. Monson #7261
3165 East Millrock Drive, Suite 500
Salt Lake City, UT 84121
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Attorneys for Plaintiff

IN THE SECOND JUDICIAL DISTRICT COURT IN AND FOR WEBER COUNTY
STATE OF UTAH

LINDA BARROW, an individual)	
)	
Plaintiff,)	COMPLAINT
v.)	Tier II
)	
GARY BARROW)	
)	Civil No. <u>160907197</u>
Defendant)	Judge <u>Ernie W. Jones</u>
)	

Plaintiff Linda Barrow ("Plaintiff"), by and through her counsel, hereby complains of Defendant Gary Barrow ("Defendant"), and seeks relief as follows:

PARTIES

1. Plaintiff is an individual residing in Weber County, State of Utah.
2. Upon information and belief, Defendant Gary Barrow is an individual residing in Weber County, State of Utah.

JURISDICTION

3. This Court has subject matter jurisdiction over this action pursuant to Utah Code Ann. § 78A-5-102(1).

VENUE

4. Venue is proper in this Court pursuant to Utah Code Ann. § 78B-3-301(1)(d) and 78B-3-307.

GENERAL ALLEGATIONS

5. In a separate proceeding, Case Number 080906434, the Honorable Noel S. Hyde entered an order and judgment on May 5, 2016 finding that Plaintiff and Defendant each own, as tenants in common, a fifty percent (50%) interest in real property located in Weber County, Utah (the "Property"), which is more particularly described as:

PART OF THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 6 NORTH, RANGE 3 WEST, SALT LAKE MERIDIAN, U.S. SURVEY: BEGINNING AT THE NORTHEAST CORNER OF SAID QUARTER SECTION; RUNNING THENCE SOUTH 2170 FEET TO A POINT 470 FEET NORTH FROM THE SOUTHEAST CORNER OF SAID QUARTER SECTION; THENCE SOUTHWESTERLY 800 FEET TO A POINT ON THE SOUTH LINE OF SAID QUARTER SECTION 640 FEET WEST OF THE SOUTHEAST CORNER OF SAID QUARTER SECTION; THENCE WEST 277.37 FEET; THENCE NORTH 1914 FEET; THENCE EAST 300 FEET; THENCE NORTH 726 FEET; THENCE EAST 617.37 FEET TO THE POINT OF BEGINNING.

Parcel Identification Number 10-034-0011

6. Plaintiff acquired her interest in the Property through a Warranty Deed executed in her favor from Gary Barrow's ex-wife, Verlene Scott, dated August 4th, 2008, and recorded on August 15th, 2008.

7. Since acquiring her interest in the Property, Plaintiff has made, or caused to be made, several improvements to the Property making the Property better situated for grazing stock and other agricultural purposes.

8. Defendant Gary Barrow has benefitted from those improvements by grazing stock on the Property.

9. Defendant has failed, however, to pay for his share of the improvements.

10. The layout and features of the Property make it impracticable to equitably divide the Property between Plaintiff and Defendant.

11. Accordingly, the Property should be sold, Plaintiff should be reimbursed for her improvements made to the Property, and the remaining proceeds should be divided equitably between Plaintiff and Defendant.

FIRST CAUSE OF ACTION
(Action for Partition)

12. By this reference, Plaintiff incorporates the allegations previously set forth above as though fully set forth herein.

13. The Property consists of a raw land, a portion of which is dissected by the Little Weber River.

14. Because the Property is divided between that which can be irrigated by a river and that which cannot, an equitable division of the Property providing equal value to all owners of the Property is not possible. Further, the frontage of the Property cannot be equitably divided because of the shape of the Property. Finally, the southwest corner of the Property contains poor soil creating further barriers to an equitable division of the Property.

15. The Property is not readily partitionable without causing great prejudice to one or more of the owners.

16. This Court should order that a partition sale of the Property be conducted as provided by law, with the proceeds of sale being first used to reimburse Plaintiff for the improvements she has made to the Property and the remaining proceeds being equally divided between Plaintiff and Defendant.

SECOND CAUSE OF ACTION
(Unjust Enrichment)

17. Plaintiff reincorporates by reference the above paragraphs of the Complaint as if set forth fully herein.

18. Plaintiff has made, or caused to be made, various improvements to the Property which have significantly enhanced the value of the Property.

19. In addition, Plaintiff has paid real property taxes on the Property.

20. Defendant is aware of and/or has an appreciation of the improvements made to the Property by Plaintiff and has benefited from the improvements made to the Property.

21. It would be inequitable for Defendant to enjoy and use the improvements to the Property without compensating Plaintiff.

22. Plaintiff is entitled to judgment and an award requiring Defendant to pay Plaintiff for one-half of the costs of the improvements that Plaintiff has made or caused to be made to the Property as well as real property taxes that Plaintiff has paid for the Property.

THIRD CAUSE OF ACTION
(Contribution)

23. Plaintiff reincorporates by reference the above paragraphs of the Complaint as if set forth fully herein.

24. Plaintiff has made, or caused to be made, various improvements to the Property which have significantly enhanced the value of the Property.

25. In addition, Plaintiff has paid real property taxes on the Property.

26. Defendant is aware of and/or has an appreciation of the improvements made to the Property by Plaintiff and has benefited from the improvements made to the Property.

27. Defendant, as a co-tenant, is obligated to reimburse Plaintiff for his proportionate share of the value of those improvements and for the real property taxes Plaintiff has paid relating to the Property.

28. Plaintiff is entitled to judgment and an award requiring Defendant to pay Plaintiff for one-half of the costs of the improvements that Plaintiff has made or caused to be made to the Property as well as real property taxes that Plaintiff has paid for the Property.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff seeks relief as follows:

Under the First Cause of Action

(a) For an order directing the Property to be sold as provided by law to partition the interests in the Property of Plaintiff and Defendant with the proceeds of such sale being first used to reimburse Plaintiff for the improvements she has made to the Property and the remaining proceeds then being equally divided between Plaintiff and Defendant;

Under the Second Cause of Action and the Third Cause of Action

(b) For an order and judgment requiring Defendant to pay Plaintiff for one-half of the costs of the improvements that Plaintiff has made or caused to be made to the Property as

well as real property taxes that Plaintiff has paid for the Property.

Under All Causes of Action

(c) For an award of attorneys' fees and costs incurred by Plaintiff in bringing this action including; and

(d) Such other and further relief as the Court deems appropriate.

DATED this 2nd day of December, 2016.

BENNETT TUELLER JOHNSON & DEERE

/s/ Sean A. Monson
Sean A. Monson
Attorneys for Plaintiff

Plaintiff's Address:
6797 W. 900 S.
Ogden, Utah 84404