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LAW OFFICES
REESE M. LING
ROOMS 19 & 20 BASHFORD BLOCK
PRESCOTT, ARIZONA

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
TERRITORY OF ARIZONA, IN AND COR THE COUNTY OF YAVAPAI.

+++++

GEORGE W. HANCE and
PARTHENY H. HANCE,

Plaintiffs,

-vs-

WALES ARNOLD, SARAH J. ARNOLD,
S.C. CHERRY, J.H. WINGFIELD,
CHARLES HARBESON, WILLIAM J. DAVIS,
E. W. MONROE, WILLIAM M. GRAY, E.J.
MONROE, JOHN H. SCOTT, BELLE MONROE,
ELIAS WYNE, THE VERDE DITCH COMPANY,
a Voluntary Association, and WILLIAM
STEPHENS and WILLIAM LANE, as Executors
of the Estate of John Wood, Deceased,

Defendants.

No. 4772.

CONCLUSIONS OF LAW
and
J U D G M E N T

+++++

This cause coming on this, the 23rd day of March,
1909 before the Court sitting without a jury, the respective
parties being present and represented by their counsel, REESE
M. LING and J. E. RUSSELL, Esqs., for Plaintiffs, and NORRIS &
ROSS for Defendants, the cause was submitted upon an agreed
statement of facts, which statement is this day filed with the
records of this Court.

The Court having considered the statement, hearing
the argument of counsel and being duly advised in the premises,
makes the following conclusions of law and judgment herein:

I.

That by the construction of the lower or old Verde
ditch as described in the pleadings of this case, the plaintiff

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and a portion of the defendants and their grantors became and are entitled to the use of the waters flowing through said ditch in the following proportion, towit: The Plaintiffs one-fifth; the Scott Ranch or See & Reeves one-fifth; John Woods ranch one-fifth; and E. J. Monroe two-fifths.

II.

That the parties hereto are owners of the following shares or interests in the upper or new Verde ditch respectively:

- George Hance, plaintiff 2/10
- John H. Scott, 1/10
- Estate of John Wood, 1/10
- E. J. Monroe, 3/20
- E. W. Monroe, 3/40 or 15/200
- W. J. Davis, (Jno. Bristow) 3/40 or 15/200
- C. H. Harbeson 9/100 or 18/200
- J. W. Wingfield, 6/100 or 12/200
- S. C. Cherry, 2/40 or 10/200
- Wales Arnold, 3/40 or 15/200
- Marksbury, successor to Wood estate 1/40 or 5/200.

III.

That the right to the use of the waters flowing through said upper or new Verde ditch, whether diverted upon lands before it reaches the old or lower Verde ditch or whether after, is a common co-ordinate right equally enjoyed by the several parties, plaintiff and defendants, without reference to priority of appropriation or use.

IV.

That the expense of repair and maintenance of the old or lower Verde ditch should be borne ratably by the parties entitled to the use of the waters flowing there through, according to their several rights to such use. That is to say, all

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1 parties interested in the ditch shall bear the expenses of re-
2 pair and maintenance proportionately from the head or Ryall
3 flume above the pipe line down to plaintiffs' point of diversion
4 from said old Verde ditch.

5 V.

6 That the expense of the maintenance of the upper or
7 new Verde ditch should be borne by the share or interest holder
8 therein according to their respective shares or interest from
9 the head, together with the dam or diversion to and including
10 said Ryall flume.

11 VI.

12 That the proceeds arising from sales of water should
13 be by the purchasers paid over to the ditch company, and the
14 ditch company in turn account to the owner or owners of the
15 interests upon whose account or accounts such sales shall be
16 made, first charging said interest or interests with its or
17 their share of the cost of repair and maintenance of the ditch.

18 VII.

19 That the water of the lower or old Verde ditch which
20 shall at all times be at least one-third the flow of the upper
21 ditch shall be so divided and distributed that each one-fifth
22 interest may have the use of all of the water every fifth day,
23 except there should be allowed to flow through the entire
24 ditch at all times a sufficient amount of water for stock and
25 domestic purposes for all parties entitled to the use of the
26 water including plaintiffs.

27 VIII.

28 That all parties interested should contribute to the
29 expense of the water commissioner including the repair and
30 maintenance of the ditch under him in proportion to their
31 several interests in said upper or new ditch, and that the sale
32 price of water sold from plaintiff's interest since the commence-
-ment of this action should be credited to him and applied to

*Question
- a water
commissioner*

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the liquidation in part of the charge against him for such expense, and the balance he should be required to pay as a condition precedent to the enjoyment of his rights as specified in the decree entered herein.

IX.

That nothing contained herein or in said decree shall be construed as prohibiting or limiting the enlargement or expansion of the lower ditch, pipe line or the upper ditch whenever the parties respectively interested therein shall deem the same desirable.

X.

That the parties, plaintiffs and defendants, should be required to pay their respective costs incurred in this suit.

That a decree be entered herein accordingly.

Done in open Court this the 23rd day of March A.D. 1909.

Frederic C. Stone

J U D G E.

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PRESCOTT, ARIZONA

THE DISTRICT COURT OF THE
NORTH JUDICIAL DISTRICT OF THE
TERRITORY OF ARIZONA, IN AND FOR
THE COUNTY OF YAVAPAI.

FORGE W. HANCE, et al,
Plaintiffs,
-vs-
ALES ARNOLD, et al,
Defendants.

CONCLUSIONS OF LAW

and
JUDGMENT

Book no. 9 p. 386
Index no. 3 p. 72

FILED.
MAR 24 1909
J. J. O'NEAL, Clerk

By *Frederic C. Stone*
Clerk
Deputy

REESE M. LING
ATTORNEY-AT-LAW
ROOMS 19 & 20
PRESCOTT, ARIZONA

PRESCOTT NAT'L BANK BLDG.
PRESCOTT, ARIZONA

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