ORIGINAL

IN THE SUPREME COURT OF THE STATE OF MONTANA

CASE NUMBER 24-0401

DEBORA STANDLEY LAROSE and KENNETH PETERS,

Defendants/Appellants,

vs.

FLATHEAD HIGH SCHOOL CLASS OF OF 1973 REUNION COMMITTEE,

Plaintiffs/Appellees.

APPELLEE'S RESPONSE BRIEF

On Appeal from the Montana Eleventh Judicial District Court Justice Court
County of Flathead
Cause No. DV 24-238

The Honorable Amy Eddy, Presiding

APPEARANCES:

Plaintiffs/Appellees, Pro Se
FHS Class of 1973 Reunion Committee
P.O. Box 2805
Kalispell, MT 59903
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Defendants/Appellants, Pro Se
Debora Standley Larose and
Kenneth Peters
1275 Kienas Road
Kalispell, MT 59901

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I. STATEMENT OF THE ISSUES

1. Whether the Judgments issued by the Justice and District Court were factually and legally correct and the monies Appellants are claiming are owed to them are in error, and whether the Finding of Fact attached to Appellant's Appendix and District Court ROA, Doc. 0.28, page 4, stating that "Appellees and Appellants also agree that the proceeds were applied as following" is in error:

Bartender ($300.00)
Kalispell Eagles ($500.00)
DJ ($400.00)
Clean Up Crew ($300.00)
Hobby Lobby ($131.25)
JoAnn's ($150.00)
Walmart ($200.00)
Linens ($548.00)
Albertsons ($94.75)
Silvertip Engraving ($200.00)
Paper Chase ($877.39)
Dry Cleaning ($17.10)
J2 ($54.75)
Walgreens ($8.97)
Shipping for belt buckle ($9.62)

TOTAL: $3,791.83

2. Whether Appellants misappropriated funds from Three Rivers Bank for the Class of 1973 and should be required to reimburse Appellees for those funds;

3. Whether Appellants had the right to disassociate;

4. Whether Appellants should return the Mark Ogle print to Appellees;

5. Whether Appellants should be found in contempt of this Court for filing a frivolous appeal not founded in fact or truth, and misrepresenting facts in their Notice of Appeal and Appeal Brief without any supporting evidence sited from a written transcript or where the evidence could be found in the court records; and whether Appellees should be awarded costs in pursuing this action.

II. STATEMENT OF THE CASE

This case is about the theft of Appellee's silent auction monies by Appellants, which they took without authorization or approval to pay for unauthorized expenses, the majority of which were donated by sponsors or fabricated as will be set forth below in the Statement of Facts, and whether Appellants are entitled to any monies for unauthorized expenses from the proceeds of the silent auction.

On September 11, 2023, Appellees filed their Complaint in the Small Claims Division of Flathead County Justice Court, to recover monies taken by Appellants without authorization or approval from Appellees from the proceeds of a silent auction that was set up for the benefit of Appellees. On September 21, 2023, Appellants filed a Motion to move the matter from Small Claims to Justice Court. On September 22, 2023, a Notice of Trial was set for November 17, 2023, in front of the Honorable Eric Hummel. On October 6, 2023, Appellants filed their Answer and Counterclaim. On October 24, 2023, Appellees filed their Answer to Appellants Answer and Counterclaim. The first day of Trial was on November 17, 2023, and

the second day of Trial was held on January 12, 2024. Both days of Trial were either recorded or had a court reporter present and written transcripts of both proceedings could be ordered. On February 1, 2024, Judgment was entered by the Honorable Eric Hummel awarding Appellees the sum of $1,153.67 against Appellants and the return of a Mark Ogle print. On February 15, 2024, Appellants filed an Appeal to District Court.

Appellants filed their Appeal Brief on March 1, 2024, and Appellees filed their Response Brief on March 11, 2024. The Court entered its Opinion and Order on Appeal on June 5, 2024, affirming the Justice Court's decision. Appellants filed an Appeal to Montana Supreme Court on July 2, 2024.

III. STATEMENT OF FACTS

This case is about the theft of Appellee's silent auction monies by Appellants, which they took without authorization or approval to pay for unauthorized expenses, the majority of which were either donated by sponsors or fabricated. Appellant Larose was a class member who came to some of the meetings of our Reunion Committee and volunteered to help find a venue and chef. Appellant Peters had no connection whatsoever to our Class or the reunion.

None of the expenses Appellants incurred were authorized or approved by Appellees, which was required. On February 1, 2024, the Honorable Eric Hummel

concluded in his Findings of Fact, attached to Appellant's Appendix and District Court ROA, Doc. 0.28. page 2:

> "At no time ... did Plaintiff (Appellee) authorize Larose (Appellant) to enter into any contracts on behalf of Plaintiff without Plaintiff's approval. Further, LaRose was not authorized to incur any expenses for the Dinner Event without Plaintiff's approval."

The silent auction was established for the benefit of the FHS Class of 73 (See Judge Hummel's Findings of Fact, District Court ROA, Doc. 0.28, on Page 3, paragraph 3):

> "The silent auction was intended to benefit the Class of 1973 and all proceeds from the auction were to go to Appellee for future reunions."

Appellant misrepresents to this Court on page 18 of her Supreme Court Appeal Brief that "The Reunion Committee had no part in any of the donation collection, set up or execution of the silent auction at all." This is simply not true as our Reunion Committee helped with all aspects of the silent auction. As set forth in Roberta Diegel's Affidavit, whom the Court found "extremely credible," District Court ROA, Doc. 0.19, pages 2 (para. 3) and 8 (para. 13):

> "3. In April, Debora came to our planning meeting with ideas of putting on a silent auction to help raise money for our reunion expenses. Many members of our committee said they would be willing to donate items

or ask friends and businesses for donations. Pam Perry Kron offered a Mark Ogle print she had. Nancy Ridgeway Swanson said she'd ask the Rainbow Bar and Happy's Inn for gift baskets. Jeff Houston said he would put together a tool basket. Terry Hemmah said she would donate gift certificates from her beauty salon. Tina & John Franklin said they would donate a Montana basket from her business. Renee Bennett Ewing said she would put together a fishing basket in memory of our classmate and her deceased husband.

13. Debora complained that no one helped her with the set up and cleanup of the dinner. Attached is a list of 12 people that showed up to help her, along with 5 individuals she got hostile with who came to volunteer and she slammed doors on them or asked them to leave (See Attached Exh. 5). There were many classmates who volunteered their time at the registration table and setting up and decorating the venue."

Appellants were not authorized to incur any expenses on Appellee's behalf or for payment of these expenses and we believe that the following Finding of Fact, Conclusions of Law, and Judgment attached to Appellant's Appendix and District Court ROA, Doc. 0.28, page 4, **IS IN ERROR**:

"Appellees and Appellants also agree the proceeds were applied as following:

Bartender ($300.00)
Kalispell Eagles ($500.00)
DJ ($400.00)
Clean Up Crew ($300.00)
Hobby Lobby ($131.25)
JoAnn's ($150.00)
Walmart ($200.00)
Linens ($548.00)
Albertsons ($94.75)
Silvertip Engraving ($200.00)
Paper Chase ($877.39)
Dry Cleaning ($17.10)
J2 ($54.75)
Walgreens ($8.97)
Shipping for belt buckle ($9.62)

Total: $3,791.83"

At no time did we agree that $3,791.83 in expenses were authorized as Appellants imply. This is the very essence of this case and any attempt by the Appellants to try to recover any more of this amount as a legitimate expense is wrong. At the time Appellant Peters seized the cash and check payments from the proceeds of the Appellee's Silent Auction without authorization or approval, they had not presented any receipts or proof of payment of any expenses as we were told they were donated. Finding of Fact, District Court ROA Listing, Doc. 0.28, page 4:

> "LaRose informed Plaintiff that there were no outstanding expenses for the Dinner Event and silent auction and informed Plaintiff that everything had been donated or provided by sponsors."

It was not until later at Trial we were provided receipts or proof of payment from Appellants of some legitimate expenses totaling $1,613.43. District Court ROA Doc. 4.00, Respondent's Brief, page 6, and Exhibit A to Appellants' Appendix, page 6, sets forth the legitimate expenses that the Appellants provided receipts for:

Eagles	$ 250.00
Bartender	$ 300.00
D.J.	$ 400.00
Hobby Lobby	$ 131.25
Albertsons	$ 94.75
Paper Chase	$ 346.99
Dry Cleaning	$ 17.10
J2	$ 54.75
Walgreens	$ 8.97
Shipping for Buckle	$ 9.62
TOTAL:	$1,613.43

Our District Court Response Brief attached as **EXHIBIT A** to Appellee's Appendix and referenced in District Court ROA Doc. 4.00, Respondent's Brief, pages 6-9, sets forth in detail the correct amount of legitimate expenses claimed by the Appellant. We provided an accounting sheet both at trial and in District Court ROA Doc. 4.00, Respondent's Brief, Exhibit 6, and attached hereto in our Appendix as **EXHIBIT B** that shows in the last column headed "our #s," that the actual expenses authorized by our class was $250.00, and that we did not believe any other expenses should be paid as we had not been provided any receipts prior to Trial and we had been told by Appellant that everything had been donated. We provided emails and

other documentation from Appellants themselves in Respondent's Brief (Exhibit A to Appellee's Appendix), District Court ROA Doc. 4.00, Exhibit 7 to Brief, pages 1 - 7 that show the majority of the expenses were either donated by sponsors or fabricated.

Appellees agree that the Mark Ogle print was donated by Ken Peters, not Pamela Kron, however, the Court correctly ruled that Larose had retained monies from the sale of the Mark Ogle print as Larose indicated that the painting had been sold for $250.00. Larose sent an email to Deanna McAtee the day after the Silent Auction, Respondent's Brief, District Court ROA, Doc. 4.00, Exh. 1, page 1 and Exhibit A to Appellants' Appendix, Exh. 1, page 1 that read:

> "Nice bid on Kens, Ogle print. We have you on paper bidding lol.. fortunately, we had another classmates pay $250 for it since you couldn't be trusted to bid or Honor it, but didn't expect anything truthful from you in the first place."

Then at trial on January 12, 2024, Appellant testified under oath she sold the painting to Derrickson (not a classmate) who died in Alaska on September 9, 2023, for $250. Respondent's Brief, District Court ROA, Doc. 4.00, Exh. 1, page 2, and Exhibit A to Appellants' Appendix, Exh. 1, p. 2. We do not know which version of Appellant's story is actually true, but we would request the Court order Appellants to return the Ogle Print to Appellees if it is in their possession, or the $250.00 received from the sale which was not included in the total from the silent auction.

Appellants did not submit a receipt during Trial for clean up as she misrepresents to this Court on page p. 4 (3) of her Supreme Court Appeal Brief. Appellants have failed to show any place in the Trial transcripts where this was submitted at Trial as it wasn't. As the Court correctly ruled in its Findings on P. 6, "The $300.00 clean up expense is not a legitimate expense because the time was supposed to be volunteered."

IV. SUMMARY OF ARGUMENT

Appellees have shown through testimony and exhibits that Appellants have been found less than credible by the Courts and should take nothing more in monies by way of this Appeal, which should be dismissed with prejudice.

Appellees have shown through testimony and exhibits that the Courts erred in awarding the amount of expenses they did to Appellants and ask that the Court correct the record as requested.

Appellees have shown that they are entitled to return of the $900 misappropriated from Three Rivers Bank by Appellants.

Appellees have shown that they are entitled to return of the Mark Ogle print;

Appellees have shown they are entitled to Judgment in the amount of $2,222.07 against Appellants, jointly and severally, to bear interest at the rate of 11.5% per annum.

V. STANDARD OF REVIEW

The Supreme Court will review a court's findings of fact to determine if they are supported by substantial evidence. We have defined "substantial evidence" as consisting

of "more than a mere scintilla of evidence but may be somewhat less than a preponderance." Furthermore, "where the findings are based on conflicting evidence, the Court's function is to determine whether there is substantial evidence to support the findings and not to determine whether there is sufficient evidence to support contrary findings." We will not substitute our judgment for that of a trial court when the issue concerns the weight given to certain evidence or the credibility of witnesses. Walls v. Travelers Indem. Co., 281 Mont. 106, 110-11, 931 P.2d 712, 715 (1997) (citations omitted).

"A finding of fact is clearly erroneous if not supported by substantial evidence, if the court misapprehended the effect of the evidence or if, upon reviewing the record, this Court is left with the definite and firm conviction that the district court made a mistake." In re S.T., 2008 MT 19, ¶ 8, 341 Mont. 176, 176 P.3d 1054 (citation omitted).

VI. ARGUMENT

1. Flathead Co. Eleventh Judicial Court did not rule on Appellants' Motion for Reconsideration filed on June 12, 2024, because a Motion for Reconsideration is not one of the post-judgment motions provided for, or authorized by, the Montana Rules of Civil Procedure. Haugen, 279 Mont. at 11, 926 P.2d at 1370.

2. Appellants are not correct as they state on p. 11 of their Appeal Brief that the January 12, 2024, Trial was not recorded or that Judge Hummel stated on record that "he had previous business and personal relationships with members of

the Class of 1973 Reunion Committee." The hearing was recorded and any party could order a disk of the recorded hearing and have it transcribed by a Court recorder. Also, the Appellants have not provided the Court with any portions of the transcript as to where this statement might be found.

Judge Hummel did not have any personal conversations or contacts with members of the Reunion Committee inside or outside his courtroom except for when it was in session, and Appellants have never proven this or brought it before the Court during trial.

More importantly, as stated in the Opinion and Order of Appeal attached to Appellants' Appendix, and District Court ROA, Doc. 9.00, at p. 3:

> "As a final matter, the Defendants did not follow the proper procedure to disqualify the Justice of the Peace for cause based on a conflict of interest or the appearance of impropriety. Mont Code Ann. Sect. 3-1-805. Accordingly, the Court does not address this issue."

3. The subpoenaed documents were not received during the first hearing on November 17, 2023, as there was not enough time to call the persons subpoenaed to be sworn in and Judge Hummel instructed Appellees to hold on to their documents and bring the documents responsive to the Subpoenas to the hearing on January 12, 2024, which they did and exchanged with Appellants after they were sworn in. Again, Appellants are misrepresenting the facts and if they had ordered the written

Transcripts, this information would have been available to the Court. Appellees have never received a copy of the Appellants' written request for transcripts as required by Rule 8(3)(a) even though their Notice of Appeal to the Supreme Court dated June 5, 2024, on page 2 states that they have ordered the Transcript and that they have complied with the provisions of M.R. App.P. 8(3). A transcript can be dictated by a Court Reporter from the recording of the proceedings, which disk can be obtained from the Court.

4. Appellants state at p. 12 of their Appeal Brief, "The Right to Disassociate was clearly stated at the two hearings," and "can be found in the transcripts provided to the District Court from Justice Court and sent over the Supreme Court" yet they have not shown where this can be found, nor is there any record in the Supreme Court Docket of any Notice to Appellee of requesting the written Transcript, or of any filing of the written transcript with the Court.

As Judge Hummel correctly stated in Conclusions of Law, District Court ROA, Doc ROA 0.28, page 6:

> "An agent's authority is terminated when the agent renounces the agency. Section 28-20-801. LaRose's authority was terminated when she formed a separate committee for the dinner event. By excluding Plaintiff and its members from the new committee, she terminated the authority Plaintiff had granted her."

Appellants cannot state that the Right to Disassociate was clearly stated at the two hearings yet not provide the Court as to where this statement was found in the record or written trial transcript. Appellants may not rely upon any facts that the district court did not have before them and the Supreme Court can only decide this case based on the evidence presented in the record on appeal, which Appellants have not provided.

As the District Court correctly ruled in its Opinion and Order on Appeal District Court ROA, Doc 9.00, p. 3:

> "The Justice Court did not err in finding the Defendants were special agents of the Committee who had exceeded the authority granted to them. The Defendants' arguments they had a right to dissociate due to the illegal and immoral acts of the Committee were not presented to the Justice Court and cannot be considered for the first time on appeal."

5. Appellees never refused to pay for any legitimate expenses that were approved or authorized in advance, including the venue or the Chef and were involved with all aspects of the dinner event. This was our 50th class reunion and our committee was set up to organize the reunion, raise funds for the reunion through registration fees and other activities such as the silent auction, and to pay for expenses as approved and authorized by our Committee.

Appellants were asked at every meeting they attended if they had any outstanding expenses to submit, and without fail, they would reply that they had no outstanding

expenses and that everything had been donated by sponsors. Appellants were never given any authority to incur costs on behalf of Appellees without Appellee's authorization, and we believed there were no expenses based on what we were told.

The Court correctly concluded in its Conclusions of Law, ROA 0.28, pages 3 and 4:

> "Shelley Wagnild ("Wagnild" testified that at the June 7, 2023, meeting, Plaintiff asked LaRose if she had any outstanding expenses for the Dinner Event that needed to be paid by the Plaintiff (See Affidavit of Shelley Wagnild, ROA, Doc. 0.15, at para. 7). LaRose informed Plaintiff that there were no outstanding expenses for the Dinner Event and silent auction, and informed Plaintiff that everything had been donated or provided by Sponsors (Affidavit of Shelley Wagnild, ROA, Doc. 0.15, at para. 7, Roberta Diegel, ROA, Doc. 0.19, at para. 5, Affidavit of Tiena Harris, ROA, Doc. 0.17, at para. 8). The Court finds these witnesses extremely credible (emphasis added)."

Appellant volunteered to help locate a venue and chef, which she did, as our first venue would only hold 150 and we were over that capacity. Pursuant to the testimony and Affidavit of Jeff Houston, District Court ROA, Doc. 0.18, at pages 1 and 2:

> "By the March meeting we were getting responses that showed our venue may be too small to handle the numbers of people that were responding.

This was the first meeting that Debora Standley Larose attended. She said that she would be willing to look for a bigger venue and a caterer."

Appellee negotiated directly with the Chef and signed a contract with him for his services and he was paid in full by Appellee for his services.

Our Reunion Committee had funds to pay for legitimate expenses, including a previous balance in our Reunion account and incoming registration. Appellees presented an updated accounting at each meeting. Affidavit of Roberta Diegel, ROA, Doc. 0.19, page 1, whom the Court found extremely credible (emphasis added).":

"I have participated in every reunion since our first reunion in 1983. We started planning for our FHS 50-year Class Reunion in August, 2022. There were about 20 classmates who participated in the planning and research for this reunion. These classmates and myself have donated literally thousands of hours planning events, researching classmates whereabouts, developing mailing lists, and maintaining a spreadsheet of monies collected. We met every month for an update on our mailing list and progress on our events. We had $1,501.81 left over from our 45th reunion that we were using to secure deposits and pay for our first mailing."

The Appellants falsely claim in their Appeal Brief at p. 15 that:

"The Defendant's at no time wrongfully obtained any funds, which was proven in the hearing, and yet incorrectly calculated by both Judges in the Judgment. Shown in the Motion for Reconsideration presented to both Courts after Verdicts."

Appellants took the checks and cash from the proceeds of our Class of 1973 Silent Auction, without Plaintiff's authorization or approval, which was required, and this act alone would certainly constitute "wrongfully obtained funds." As Judge Hummel stated in his Findings of Fact, ROA 0.28, pages 2 and 3:

P. 2 "At no time ... did Plaintiff (Appellee) authorize Larose (Appellant) to enter into any contracts on behalf of Plaintiff without Plaintiff's approval. Further, LaRose was not authorized to incur any expenses for the Dinner Event without Plaintiff's approval."

P. 3 "The silent auction was intended to benefit the Class of 1973 and ALL (emphasis added) proceeds from the auction were to go to Plaintiff for future reunions."

A Motion for Reconsideration must be made before the trial court enters a final judgment and is not one of the post-judgment motions provided for, or authorized by, the Montana Rules of Civil Procedure. Haugen, 279 Mont. at 11, 926 P.2d at 1370, and therefore was not considered by the Courts.

6. On August 11, 2023, Shelley Wagnild stopped by Three Rivers Bank as Appellees understood Three Rivers had donated funds to the Class of 1973, yet we had not seen the funds. Ms. Wagnild asked to see A.J. King, CEO, but he was out of the office and she spoke with Cynthia Koch, the Assistant Controller. Ms. Koch told her that someone approached the Bank about making a donation to the Class of 1973 and she had written a check to an engraving company and one for $900.00 to Paper Chase on behalf of the Class of 1973. Ms. Wagnild told her that we had never seen those funds and was wondering if she could shed some light on the donation. See Affidavit of Shelley Wagnild, ROA, Doc. 0.15 attached to Appellee's Appendix as **EXHIBIT C**, pages 3 and 4:

> "11. On August 11, 2023, I stopped by Three Rivers Bank to set up a meeting with A.J. King, CEO, who we were told had donated monies on behalf of the class of 1973. We had never seen those funds nor did we have any idea where the funds might be. Mr. King was out of the office, but I spoke with Cynthia Koch, Assistant Controller, who told me they wrote a check to an engraving company and one for $900.00 to Paper Chase.
>
> 12. Having concerns as to what happened to these funds, I immediately went to Paper Chase to speak with Tara, our contact at Paper Chase, however, she was out of the office until the following Monday. On Monday, August 14, 2023, I went back to Paper Chase and asked to see Tara. I had never met her before and was directed to a desk alongside the front counter where she was sitting. I approached

the desk, asked if she was Tara, introduced myself, and sat down at the desk facing her. I told her I was there as a representative of the FHS Class of 73 Reunion Committee to ask questions about the $900 funds. I was never directed to any place private to talk with Tara. I told her I had stopped at Three Rivers Bank the week before and was told they had written a check for copying costs to Paper Chase for $900.00. Tara said Three Rivers Bank had not written the check to Paper Chase but to Defendant Larose. I asked her what had happened to the funds and whether they had been paid by Defendant Larose but Tara would not answer any more questions, and I left."

Ms. Koch of Three Rivers Bank volunteered to give Ms. Wagnild copies of the checks (Pages 9 and 10 (of 100 pages) to Appellee's Trial Exhibits and attached as **EXHIBIT D** to Appellee's Appendix, which show on the face of the check that they were in fact, for the Class of 1973, not Appellant or Paper Chase. When Tara from Paper Chase was asked under oath if she could explain why it had the notation Class of 1973 on the check written to Paper Chase, she said she could not. Respondent's Brief, District Court ROA, Doc. 4.0, Exhibit 7, page 9.

It should be noted that Attachment D to Appellant's Appendix are copies of Exhibits 9 and 10 to Appellee's Trial Exhibits with writing on the pages that say "3 Rivers Sponsor Donation to Deb." This writing was not on any documents previously presented to the Court during Trial, nor did Appellant show the Court where these documents with the writing could be found.

Paper Chase billed the Appellants a total of $1,777.39 from May 3 to Aug. 5, 2023, for purported dinner event expenses, without Appellee's authorization or approval. See Respondent's Brief, District Court ROA, Doc. 4.0, Exhibit 7, pages 5 and 6. The Appellants used the monies from the Silent Auction and the $900.00 from Three Rivers Bank to pay Paper Chase for expenses that were neither authorized nor approved even though the face of the check showed it was for the Class of 1973, and we would request the return of these funds.

On page 6, paragraph 2, Conclusions of Law, the Court points out that:

> "A party who proves unjust enrichment may recover "the benefit wrongfully obtained." § 27-1-602."

Appellees have proven by a preponderance of the evidence that Appellants were unjustly enriched by retaining proceeds of the silent auction when the expenses were not authorized or approved by the Class of 1973, and in fact donated by sponsors and not actual expenses. Appellants misappropriated a $900.00 donation from Three Rivers that should have gone directly to Appellees.

The Justice Court issued extensive Findings of Fact.

1. Whether Appellants are credible. The Courts were correct in their ruling that the Appellants were neither credible in their dealings with the Flathead High School Class of 1973 Reunion Committee ("FHS Class of 73") or in their testimony at Trial and that the Appellants were not authorized to incur any expenses

on behalf of the Flathead High School Class of 1973 Reunion Committee. Findings of Fact, District Court ROA, Doc. 0.28. page 2:

> "At no time ... did Plaintiff (Appellee) authorize Larose (Appellant) to enter into any contracts on behalf of Plaintiff without Plaintiff's approval. Further, LaRose was not authorized to incur any expenses for the Dinner Event without Plaintiff's approval."

The Courts correctly ruled the Silent Auction was organized for the benefit of the FHS Class of 1973, Findings of Fact, District Court ROA, Doc. 0.28. page 3:

> "The silent auction was intended to benefit the Class of 1973 and all proceeds from the auction were to go to Appellee for future reunions."

2. Credibility Determination.

It is well established that the trial court is in the best position to observe and judge the credibility of witnesses. Kurtzenacker v. Davis Surveying, Inc., 2012 MT 105, P. 30. An appellate court generally does not second guess the trial court's determination regarding the strength and weight of conflicting testimony. Id.

This entire case comes down to a matter of credibility, and Judge Hummel made specific findings of credibility throughout his Findings of Fact, ROA 0.28, including:

(a) Page 2, paragraph 2: "Appellee did not authorize Larose to form a separate committee for the Dinner Event (testimony provided by

Robert Diegel during cross examination by Appellant). The Court finds Ms. Larose's testimony in this respect to lack credibility."

(b) Page 3, paragraphs 3 and 4: "Kron testified that during that conversation, LaRose declared that she was the Chairman of the Dinner Events Committee and it was "her event." Kron responded that the Appellee was in charge of the Reunion and all matters needed to be approved by Appellee. The Court finds these witnesses to be credible and to be more credible than either Appellant."

(c) Last line of page 3, and top 6 lines of page 4: "Shelley Wagnild testified that at the June 7, 2023, meeting, Appellee asked Larose if she had any outstanding expenses for the dinner Event that needed to be paid by Appellee. Larose informed Appellee that there were no outstanding expenses for the Dinner Event and silent auction, and informed Appellee that everything had been donated by sponsors. (See Affidavits of Wagnild, Diegel, and Harris). The Court finds these witnesses extremely credible.

(d) Page 4, paragraph 2: "Jeff Houston testified that Appellants did not present Appellee with any outstanding expenses to be reimbursed. (See Houston Affidavit, Para. 16). The Court finds Mr. Houston to be extremely credible.

(e) Page 4, paragraph 5: "Roberta Peters Diegel, the Reunion Treasurer, and credible witness, testified that LaRose and Peters retained all the proceeds (cash) from the silent auction.

(f) Page 4, paragraph 6: "On or about September 6, 2023, Appellee and Appellants held a meeting to review the profits and losses of the Dinner Event and to discuss the proceeds of the silent auction. Discussions broke down and nothing was resolved. (see Affidavit of Kron) Appellants did not cooperate or act in good faith."

The Court stated in its Findings on the last paragraph of p. 3 and continuing to p. 4, lines 2-6, "LaRose informed Appellee that there were no outstanding expenses for the Dinner Event and silent auction, and informed Appellee that everything had been donated or provided by sponsors. (Also see Statement of Shelley Wagnild, p. 1, para. 3 and p. 2, para. 6; Statement of Lois Cummings, p. 1, para. 2, and Statement of Roberta Diegel, p. 10, lines 1-3, 15-17, all of whom the Court found extremely credible, and which statements are filed with the Court.

As further proof of Appellants lack of credibility, the Trial Notebook given to Plaintiffs by Larose on the first day of Trial was different than the one given to the Court on the 2nd day of Trial. Judge Hummel instructed Larose to keep the Court's Notebook and enter it on the 2nd day of Trial when they were sworn in. When Larose attempted to give Plaintiffs the altered Notebook on January 12, 2024, we declined

as we already had ours and asked if it was the same and Larose indicated it was. When referencing documents and page numbers, it was determined by Judge Hummel the pages had been altered from the ones given to Plaintiffs on Judge Hummel admonished Larose and told her it should not be done and the change was "remarkably similar to when you tried to do your profit and loss statement." See Respondent's Brief, District Court ROA, Doc. 4.0, page 5, Exhibit 5).

The Courts ruled Appellants were not credible based on testimony and the records, yet they are now asking this Court to rule they are owed more monies and "That the names of Appellants be cleared of any wrongdoing, fraud, or unjust enrichment that the Judicial Court and District Courts and Appellees have claimed that they did." This is insulting to both the Courts and the Appellees.

3. Whether the Judgment issued by the Justice Court was factually and legally correct. The cost of unauthorized and unnecessary expenses should not be borne by our class. Whatever expenses Appellants incurred that did not benefit or were approved by our class, are her responsibility. As stated in Judge Hummel's Conclusions:

> "A "special agent" is an agent authorized to perform "a specific act or transaction." A special agent cannot exceed "the limits of their actual authority." Appellees authorized Larose to find a venue that would better suit the numbers anticipated for the Reunion Dinner Event but

did not authorize her to enter into any contracts or incur any expenses without Appellees' approval."

On p. 6, para. 2, Conclusions of Law, it states: "A party who proves unjust enrichment may recover "the benefit wrongfully obtained." § 27-1-602."

Appellees have shown that Appellants were unjustly enriched by retaining proceeds of the silent auction as the Class of 1973 did not authorize the expenses, and in fact, most of the expenses were donated by sponsors and not actual expenses.

Judge Hummel was correct in granting our class Judgment against Appellant. However, as shown by the Court records and evidence submitted herein, Judge Hummel erred in allowing Larose $3,241.83 in expenses as the legitimate expenses for the Dinner Event totaled $1,613.43, and Appellees are entitled to a reimbursement from the Appellants as set forth below:

MONIES TO APPELLEES

Silent Auction Proceeds:	$ 4,395.50
Less Credit Card monies Received:	($1,460.00)
Subtotal (Amount Larose Kept):	$ 2,935.50
Plus funds misappropriated from 3 Rivers Bank:	$ 900.00
Less Larose's Legitimate Expenses:	($ 1,613.43)
JUDGMENT TO APPELLEES:	**$ 2,222.07**

4. No Right to Disassociate

On page 5 of their Response Brief, Appellants state that they have the right to disassociate because of alleged BIA regulations and other reasons not disclosed,

however, this statement is NOT supported by any citation to authority, either by statute or case law. Judge Hummel correctly stated in his Conclusions of Law, ROA 0.28, page 6:

> "An agent's authority is terminated when the agent renounces the agency. Section 28-20-801. LaRose's authority was terminated when she formed a separate committee for the dinner event. By excluding Appellee and its members from the new committee, she terminated the authority Appellee had granted her."

The Montana Eleventh Judicial District Court of Flathead County's Opinion and Order on Appeal, ROA 9.00, page 3, affirmed the Justice Court's decision and further stated:

> "The Justice Court did not err in finding that the Defendants were Special Agents of the Committee who had exceeded the authority granted to them. The Defendants' argument they had a right to dissociate due to the illegal and immoral acts of the Committee were not presented to the Justice Court and cannot be considered for the first time on appeal."

Appellees respectfully request that the Supreme Court find in favor of Appellees and adjust the amount of expenses awarded to Appellants to reflect the correct amount of expenses that should have been credited to the Appellant of $1,613.43, not the

$3,241.83 as the Appellants state, and to include the $900.00 donation from Three Rivers Bank, for a total owing to Appellees from Appellants of $2,222.07, as set forth below and to AFFIRM the remainder of the lower Court Decision in favor of Appellee, and award costs in responding to this action:

Silent Auction:	$ 4,395.50
Less Credit Card:	($1,460.00)
Three Rivers Donation:	$900.00
Appellants' Legitimate Expenses:	($1,613.43)
TOTAL TO APPELLEES:	$ 2,222.07

The Supreme Court reviews a district court's award of damages for abuse of discretion. Czajkowski v. Meyers, 2007 MT 292, P 13, 339 Mont. 503, 172 P.3d 94; see also Mustang Holdings, LLC v. Zaveta, 2010 MT 139N, ¶ 17, 236 P.3d 3. The decision of the district court will not be disturbed "unless the amount awarded is so grossly out of proportion to the injury as to shock the conscience." Harding v. Savoy, 2004 MT 280, ¶ 45, 323 Mont. 261, 100 P.3d 976, (internal citations omitted). Further, while a damages judgment "must be supported by substantial evidence that is not mere guess or speculation," "mathematical precision is not required." In re Mease, 2004 MT 59, ¶ 42, 320 Mont. 229, 92 P.3d 1148. Finally, "proof of damages must consist of a reasonable basis for computation and the best evidence obtainable under the circumstances which will enable a judge to arrive at a reasonably close estimate of the loss." In re Mease,

¶ 42; see also Tractor & Equip. Co. v. Zerbe Bros., 2008 MT 449, ¶ 27, 348 Mont. 30, 42-43, 199 P.3d 222, 231.

VII. CONCLUSIONS

Based on the foregoing, we would respectfully request that the Court affirm the District Court decision with the Judgment amended as follows in favor of Appellees:

1. Judgment is awarded in favor of Appellee for the sum of $2,222.07, and the return of the Mark Ogle print, which shall be delivered to Flathead County District Court for delivery to Appellees within 30 days of entry of the Supreme Court Decision in this matter. Disobeyance may be resolved through future contempt proceedings.

2. Appellants shall take nothing by way of this Appeal, which shall be dismissed with prejudice;

3. Appellees are awarded their costs, which shall be submitted to the Flathead County District Court within 30 days of entry of the Supreme Court Decision in this matter.

4. Total judgment of the sum of $2,222.07 is awarded to Plaintiff against Defendants, jointly and severally, to bear interest at the legal rate of 11.5% per annum.

Dated this 25th day of September, 2024.

Shelley Wagnild

Shelley Wagnild, FHS Class of 1973 Reunion Committee

CERTIFICATE OF SERVICE

I, Shelley Wagnild, on behalf of Appellees, FHS Class of 1973 Reunion Committee, certify that I have filed Appellees Response Brief and Addendum with the Clerk of the Montana Supreme Court and I have mailed a copy of Appellees Response Brief and Addendum on Appellants Deborah Standley Larose and Kenneth Peters at 1275 Kienas Road, Kalispell, MT 59901, by U.S. Mail, on the 25th day of September, 2024.

Shelley Wagnild

Shelley Wagnild

CERTIFICATE OF COMPLIANCE

I, Shelley Wagnild, on behalf of Appellees, FHS Class of 1973 Reunion Committee, certify that the Appellee's Response Brief complies with the requirements of Supreme Court Briefs in that it is Times New Roman font, 14 points, double spaced, has one-inch margins, and does not exceed 30 pages and/or 10,000 words.

Dated this 25th day of September, 2024.

Shelley Wagnild

Shelley Wagnild