FILED
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CLERK OF THE SUPREME COURT
STATE OF MONTANA
Case Number: DA 25-0517

DA 25-0517

IN THE SUPREME COURT OF THE STATE OF MONTANA

2026 MT 223N

GARY TAYLOR,

Plaintiff and Appellant,

v.

GEORGE ANTHONY TAYLOR and
ANNE MARIE TAYLOR,

Defendants and Appellees.

APPEAL FROM: District Court of the Fifth Judicial District,
In and For the County of Jefferson, Cause No. DV-2019-110
Honorable Luke Berger, Presiding Judge

COUNSEL OF RECORD:

For Appellant:

Kevin E. Vainio, Attorney at Law, Butte, Montana

For Appellee:

Caitlin T. Pabst, Pabst Law Firm, Bozeman, Montana

Submitted on Briefs: May 6, 2026

Decided: September 15, 2026

Filed:

Clerk

Justice Ingrid Gustafson delivered the Opinion of the Court.

¶1 Pursuant to Section I, Paragraph 3(c), Montana Supreme Court Internal Operating Rules, this case is decided by memorandum opinion and shall not be cited and does not serve as precedent. Its case title, cause number, and disposition shall be included in this Court's quarterly list of noncitable cases published in the Pacific Reporter and Montana Reports.

¶2 Gary Taylor (Gary) appeals from the April 25, 2025 Order on Remanded Issue and the June 20, 2025 Order on Remanded Issue issued by the Fifth Judicial District Court, Jefferson County. We reverse and remand.

¶3 This is the second appeal arising out of a property dispute between Gary and his son George Anthony Taylor (Tony) and daughter-in-law Anne Marie Taylor (collectively "the Taylors"). The factual background surrounding this dispute is set forth at greater length in our opinion arising from the first appeal. *Taylor v. Taylor*, No. DA 23-0554, 2024 MT 297N, 2024 Mont. LEXIS 1362 (*Taylor I*). In brief, Gary divided land he owned into two parcels (B-1 and B-2) via family transfer and conveyed parcel B-1 to Tony via quitclaim deed in 2013. Gary asserts he transferred the parcel to Tony to use the family transfer process to develop a subdivision and Tony orally agreed he would transfer the land back to Gary once the subdivision was approved. Tony denies this arrangement, but alleges he verbally agreed in September of 2017 that Gary, who lived on parcel B-1, would perform property maintenance and install a private roadway in lieu of paying rent. Gary ultimately sold B-2 and continued to live on B-1. In October 2017, Tony transferred ownership of parcel B-1 to himself and Anne Marie via quitclaim deed. In October of 2019, Tony sent

Gary a letter which restated the alleged verbal rental agreement and stated Tony would start charging Gary $2,000 per month in rent beginning on January 1, 2020. The road was constructed and completed by December of 2019. Gary filed an action to quiet title in the District Court, while the Taylors filed an eviction action against Gary in the Jefferson County Justice Court alleging claims for possession, breach of contract, and unjust enrichment. The cases were consolidated and the District Court granted summary judgment in favor of the Taylors on all claims. *Taylor I*, ¶¶ 3-9. Gary appealed to this Court, which affirmed the District Court on its order quieting title in favor of the Taylors and granting them possession, but reversed and remanded for the District Court to make additional findings and conclusions regarding the terms of the alleged contract and proper damages for its breach, or, if the court determined the Taylors could not recover under a contract theory, to make findings on the elements of unjust enrichment. We further noted that Gary could offset any damages assessed if he could prove the required elements under *Pritchard Petroleum Co. v. Farmers Coop. Oil & Supply Co.*, 121 Mont. 1, 190 P.2d 55 (1948). *Taylor I*, ¶¶ 12-31. We reversed for the District Court "to consider the evidence and arguments already presented or to take additional evidence as the District Court deems necessary, and to develop its findings and conclusions." *Taylor I*, ¶ 31.

¶4 On remand, the District Court issued its first Order on Remanded Issue on April 25, 2025. In that order, the District Court first determined the Taylors could not recover damages for unpaid rent under a breach of contract theory as the alleged verbal contract was unenforceable under the statute of frauds. Turning to unjust enrichment, the court found each party conferred a benefit upon the other—Tony allowed Gary to live on B-1 while not paying rent, while Gary constructed the easement road on Tony's land. The court determined it needed to "weigh these considerations in determining what compensation Tony is owed under the theory of unjust enrichment" and stated Gary must "file an affidavit and any other supporting documentation . . . detailing the cost of constructing the easement and any other alleged improvements he made to Parcel B-1" which would be "used as an offset to the previously Ordered $60,000.00." In its ultimate order, however, the court ordered Gary to "file an affidavit as to the 'amount of benefit for the road' within 21 days" and allowed Tony 14 days to file a response.

¶5 Gary filed a Declaration in which he asserted the improvements he made to the property consisted of $6,100 for construction of the easement road; $40,840.28 for drilling of a well; $24,000 for a new water shed; $1,912 to replace damaged roof skylights and gutters; $5,409.34 for property taxes and insurance he paid from May 2013 through October 2017; and $80,000 for personal property taken by Tony when he assumed possession of Parcel B-1. The Taylors responded and moved to strike any costs other than the $6,100 cost of the road. Gary filed a response asserting several factual issues remained to be settled, including "consideration of the value of improvements, whether Gary was a 'good faith trespasser' and several other matters." Gary further noted the District Court's award of $60,000 based on an unsigned rental contract was "entirely based on the amount of rent and not upon 18 months for 'unjust enrichment,'" and the setting of the valuation was "a determination constituting a jury question at any rate."

¶6 The District Court issued its second Order on Remanded Issue on June 20, 2025. The analysis section of the court's order contains a large block quote which it asserts to be the "Court Rationale" of this Court's *Taylor I* opinion, but is in fact language generated in some manner by LexisNexis as part of its own "Case Summary" and does not constitute, in any way, a portion of this Court's actual opinion. The District Court noted it issued an order clarifying its $60,000 award was for unjust enrichment and allowed Gary the opportunity to submit an affidavit detailing the costs associated with building the road. The court determined the $60,000 award was offset by the $6,100 cost of building the road and issued a judgment against Gary in the amount of $53,900 plus interest.

¶7 Gary appeals. We consider whether the District Court erred by granting summary judgment in favor of the Taylors on the unjust enrichment claim during proceedings on remand.

¶8 We review summary judgment rulings de novo, using the same M. R. Civ. P. 56 criteria as the district court. *Volk v. Goeser*, 2016 MT 61, ¶ 18, 382 Mont. 382, 367 P.3d 378. Summary judgment is appropriate when the moving party demonstrates both the absence of any genuine issues of material fact and entitlement to judgment as a matter of law. *Volk*, ¶ 18 (citing *Albert v. City of Billings*, 2012 MT 159, ¶ 15, 365 Mont. 454, 282 P.3d 704). "The questions of whether a genuine issue of material fact exists or whether a party is entitled to judgment as a matter of law are conclusions of law subject to de novo review for correctness." *Davis v. Westphal*, 2017 MT 276, ¶ 9, 389 Mont. 251, 405 P.3d 73.

¶9 In *Taylor I*, we affirmed the District Court's order quieting title in favor of the Taylors and granting them possession of Parcel B-1. We reversed the District Court's summary judgment in favor of the Taylors on both their breach of oral contract and unjust enrichment claims and remanded for the court "to make additional findings and conclusions regarding the terms of the alleged contract and the proper damages for its breach. If the District Court determines that the Taylors cannot recover the amount of their claimed damages under a contract theory, it must make findings on the elements of unjust enrichment." *Taylor I*, ¶ 31. We held Gary "may offset any damages assessed if he can prove the required elements under *Pritchard*" and remanded "for the District Court to consider the evidence and arguments already presented or to take additional evidence as the District Court deems necessary, and to develop its findings and conclusions." *Taylor I*, ¶ 31. On appeal, the parties do not dispute the correctness of the District Court's ruling that the Taylors' breach of oral contract claim failed because there was no enforceable contract. What the parties disagree on is the correctness of the District Court's unjust enrichment ruling. Gary asserts the District Court erred by making numerous factual findings which were properly the province of a jury, while the Taylors contend there were no remaining issues of fact to be determined and the District Court correctly limited the equitable setoff to the cost of the road and determined damages based on the $2,000 per month rental figure.

¶10 As an initial matter, we note the Taylors' briefing both sets forth an erroneous standard of review related to appeals from a bench trial, which was not held here, and on multiple occasions cites to unpublished opinions of this Court. "[U]npublished orders and opinions from this Court are not to be cited as precedent." *State v. Oie*, 2007 MT 328, ¶ 16, 340 Mont. 205, 174 P.3d 937. "We plainly and unambiguously state in the first paragraph of every unpublished opinion that such opinions 'shall not be cited as precedent.'" *State v. Ferre*, 2014 MT 96, ¶ 15, 374 Mont. 428, 322 P.3d 1047. Once again, we "admonish counsel not to cite to or rely on such orders and opinions in the future" and reiterate that "when included in briefs, we give no regard to such citations." *Oie*, ¶ 16. Accordingly, we give no regard to the Taylors' "improve at your own risk" argument as set forth in their briefing as it is based on one such unpublished opinion, in addition to being contradicted by binding precedent, which we already noted in our *Taylor I* opinion. *See Taylor I*, ¶ 30.

¶11 Gary asserts the District Court erred in its orders on remand in four ways: (1) by limiting equitable setoff to the cost of the road installation; (2) by selecting the $2,000 rent figure for its damage calculation; (3) by awarding 30 months of back rent for unjust enrichment without analysis of when Gary's presence became wrongful; and (4) by not permitting a jury trial when disputed issues of fact remained. The Taylors repeatedly assert Gary was a "bad faith trespasser" and therefore the District Court's limitation of the equitable setoff to only the value of the road and its damages calculations based on Tony's $2,000 per month rental demand are correct.

¶12 After determining the breach of contract claim failed, the District Court proceeded to address the unjust enrichment claim. Recovery under a theory of unjust enrichment is an equitable claim and only available in the absence of a legal contract. *Missoula Cnty. v. State*, 2024 MT 98, ¶ 31, 416 Mont. 340, 547 P.3d 1268. "To prevail on a claim of unjust enrichment, the aggrieved party must establish that (1) a benefit was conferred upon the recipient by the claimant; (2) the recipient knew about or appreciated the benefit; and

(3) the recipient accepted or retained the benefit under circumstances rendering it inequitable for the recipient to do so." *Missoula Cnty.*, ¶ 31.

¶13 Our *Taylor I* opinion specifically directed the District Court that "[i]f Gary does owe damages for wrongfully occupying the land without an agreement of rent payment, he may recover a setoff if he can prove that, as a good faith trespasser, he made the improvements and that the improvements enhanced the value, not to exceed the damages amount assessed for wrongful occupancy of the property. *Pritchard*, 121 Mont. at 15-16, 190 P.2d at 62-63." *Taylor I*, ¶ 30. The *Pritchard* decision held that "a good faith trespasser who placed permanent improvements on the land may counterclaim in equity for damages setoff to 'recoup the value of the improvements' to the extent they 'enhanced the value of the land' regardless of limitations of § 70-28-110, MCA." *Davis*, ¶ 18 (quoting *Pritchard*, 121 Mont. at 15-16, 190 P.2d at 62-63). Accordingly, after finding that Gary owed damages for wrongfully occupying the land without an agreement of rent payment the next determination was necessarily whether Gary was a "good faith" or "bad faith" trespasser and when, if Gary started as a good faith trespasser, he became a bad faith trespasser. This determination is necessarily one involving disputed facts which needs resolution by a jury, not one suitable for summary judgment.

¶14 Relatedly, another determination which must be made by a jury and not on this summary judgment record, is Gary's *Pritchard* claim for all of his "improvements" to the property. The District Court arbitrarily limited consideration to only the cost incurred by Gary to build the road, when this Court's *Taylor I* opinion explicitly remanded for the District Court to consider the equitable setoff of "the improvements" and whether the "improvements enhanced the value" of the property, and, if so, to award a setoff "not to exceed the damages amount assessed for wrongful occupancy of the property." *Taylor I*, ¶ 30 (citing *Pritchard*, 121 Mont. at 15-16, 190 P.2d at 62-63). Gary presented a declaration asserting several improvements he made to the property. The Taylors asserted, incorrectly, that any improvements beyond the road were outside the scope of remand and specifically disputed some of Gary's asserted improvements (a concrete slab and personal property). Once again, these disputed material facts are the province of a jury, not the District Court based on this record.

¶15 Finally, the District Court determined the damage calculation for Gary's wrongful occupation of the property based upon Tony's initial letter demanding $2,000 in rent per month. "Reasonable rental value is a proper estimation of the value of use of property." *Goodover v. Lindey's, Inc.*, 255 Mont. 430, 439, 843 P.2d 765, 771 (1992). "The value of the use is the value to the owner of the property, not its value to the wrongdoer." *Pritchard*, 121 Mont. at 7, 190 P.2d at 58. The record does not reflect that $2,000 is in fact the "reasonable rental value" of the property, only that Tony demanded Gary pay that amount in an alleged verbal contract which the District Court held to be unenforceable. Without other documentation in the record to support the $2,000 per month rental value, the "reasonable rental value" of Parcel B-1 is, once again, a question which must be presented to a jury.

¶16 We reverse the District Court's orders which held Gary was unjustly enriched in the amount of $60,000 in unpaid rent and entitled to a setoff of $6,100 against that amount solely in relation to his construction of the road. We remand for further proceedings in accordance with this Opinion.

¶17 We have determined to decide this case pursuant to Section I, Paragraph 3(c) of our Internal Operating Rules, which provides for memorandum opinions. In the opinion of the Court, the case presents a question controlled by settled law or by the clear application of applicable standards of review.

¶18 Reversed and remanded.

/S/ INGRID GUSTAFSON

We Concur:

/S/ CORY J. SWANSON
/S/ KATHERINE M. BIDEGARAY
/S/ JAMES JEREMIAH SHEA
/S/ JIM RICE