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Snider v. Arnold Respondent's Brief Dckt. 38572

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STEVEN J. SNIDER and MARY A. SNIDER, Husband and Wife,)

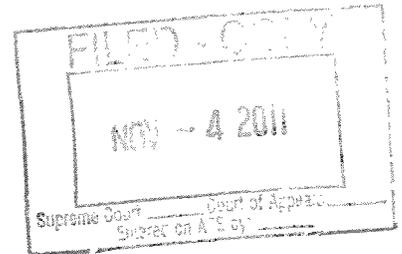
Plaintiffs/Respondents,)

-vs-)

RONALD D. ARNOLD and DOROTHY A. ARNOLD, Husband and Wife,)

Defendants/Appellants.)

Supreme Court Docket No. 38572-2011



BRIEF OF PLAINTIFFS/RESPONDENTS

APPEAL FROM THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT IN AND FOR VALLEY COUNTY

HONORABLE MICHAEL R. MCLAUGHLIN, DISTRICT JUDGE, PRESIDING

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THE CLEAR AND CONVINCING EVIDENCE STANDARD
IN FINDING THAT SNIDERS WERE ENTITLED TO IMPOSITION
OF A CONSTRUCTIVE TRUST**

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STATEMENT OF THE CASE

A. Nature of the Case.

The following is an introductory outline of the case. A detailed recitation, with citations to the record, follows in the Statement of Facts.

The subject of this dispute is a cabin and improvements situated on ½ acre of Forest Service land in Valley County, Idaho.

The right to use the land is derived from a Special Use Permit issued by the Forest Service.

Respondent Mary A. (“Toni”) Snider and Appellant Ronald D. Arnold, are sister and brother.

Their father, Francis Doyle Arnold, originally obtained a Special Use Permit from the Forest Service on June 22, 1957, to occupy the subject parcel and construct a cabin.

He subsequently constructed the cabin that was used by the family until his death on October 24, 1982.

At the time of his death, Doyle Arnold was married to Bette Marie Arnold. They were married in 1973. According to the terms of his Last Will and Testament, all property owned at the time of his death was given to Bette, if she survived him. In the event she did not survive, the Special Use Permit, cabin and appurtenances were to be given to his children, Ron Arnold and Toni Snider, “share and share alike.” Bette did survive and was awarded the property.

However, because she never thought of the cabin as hers, and didn’t really care about it, and in an effort to honor her husband’s wishes, on January 6, 1983, Bette gave the property to Ron and Toni. She did this by executing a “Request for Termination of and Application for Special Use Permit” stating that all right, title and interest of her and Mr. Arnold had been conveyed, and requesting that the Special Use Permit be transferred into the names of “Ronald D. or Dorothy A. Arnold and Steven J. or Mary A. Snider”.

The contact person for correspondence was to be Ronald D. Arnold. A copy of this document is provided as Appendix A.

In response, on February 1, 1983, the Forest Service prepared a Special Use Permit only in the names of Ronald D. Arnold and Dorothy A. Arnold.

On February 7, 1983, the District Ranger sent a letter to Ronald Arnold indicating that the permit could not be issued as the parties had requested because a new policy had been instituted preventing issuance of a permit to more than one person, except in the case of husband and wife. A copy of this letter is reproduced as Appendix B.

Toni never actually saw the letter or the Special Use Permit until recently when she obtained a copy from the Forest Service under the Freedom of Information Act.

When Ron received that letter he called Toni to discuss it. In the phone conversation, Ron told Toni that the Forest Service could not put the permit in both families' names, because of a new policy. He did not mention anything to her about them being able to form some type of legal entity to put it into.

In that conversation, Ron and Toni agreed that the permit could remain in the names of Ronald D. Arnold and Dorothy A. Arnold, as the Forest Ranger had done, with the understanding that it was being held for the mutual benefit of both families. Ron told Toni they could draw up some kind of an agreement between them if she wanted, but he didn't think it was necessary. Toni completely trusted him and did not believe a written agreement was necessary at the time.

For the next 26 years, the two families shared the use of the cabin and have shared the expenses, including but not limited to lease payments to the Forest Service, personal property taxes to Valley County, Idaho, utilities, membership dues to the homeowners association, and maintenance expenses.

In addition, the parties have shared the labor and expense of a number of improvements to the property.

In 2009, Ron and Dorothy Arnold began to take the position that the cabin and all the personal property belonged exclusively to them, because Bette had actually intended to give it only to them. They announced that Toni and Steve would merely have the right to continue to share the use of the premises during their lifetimes, but have no ownership interest.

Only after obtaining copies of the records from the Forest Service in 2009, and after consultation with their attorney, did Sniders realize that they could have formed some type of legal entity with the Arnolds to own the permit and the cabin. They then approached Ron and Dorothy about the idea and were refused.

This lawsuit followed, with the Sniders seeking declaratory relief under the provisions of Idaho Code 10-1201, et seq., with several theories having been advanced in the complaint, including resulting trust, implied contract, quasi estoppel, and unjust enrichment. The theory of constructive trust was later raised and tried as an additional theory for the court to consider.

The district court found that a constructive trust had been created and declared the parties joint owners of the subject property.

B. Course of Proceedings Below. Respondents agree with the Appellant's recitation of the Course of Proceedings below.

C. Statement of Facts.

Nearly all of the essential facts in this case are disputed, so the following statement is of the facts as presented by Steve and Toni Snider. Their position was supported by the testimony of Earlene Taylor, a cousin of Toni and Ron (Tr. Vol. I, pp. 5-12); Frank Jardine, a mutual friend of the parties (Tr. Vol. I, pp. 13-24; Betty Jean Arnold, formerly married to Doyle Arnold's brother (Tr. Vol. I, pp 25-33); and the trial exhibits.

The Appellant Ronald D. Arnold and the Respondent, Mary A. (“Toni”) Snider are brother and sister. Tr. Vol. I, p. 38, L. 21-22. Their father, Francis Doyle Arnold, originally obtained a Special Use Permit from the Forest Service on June 25, 1957, to occupy Lot 2 of the Paradise Valley Tract, Valley County, Idaho, and construct a summer home. Pl. Ex. 2(a). He subsequently constructed the cabin that was used by the family until his death on October 24, 1982. (Mary Snider Aff. ¶ 2, R. Vol. I, p. 184, Attachment to Pl. Ex. 2(d)).

At the time of his death, Doyle was married to Bette Marie Arnold. They were married sometime in 1973. (Aff. Mary Snider, ¶ 8, R. Vol. I, p. 186; Tr. Vol. II, p. 56, L. 9). According to the terms of his Last Will and Testament (Pl. Ex. 1), all property owned at the time of his death was given to Bette Marie Arnold, if she survived him. In the event she did not survive, the Special Use Permit, cabin and appurtenances were to be given to his children, Ronald D. Arnold and Mary A. Snider, “share and share alike.” Bette had also made a will of her own with identical provisions. Tr. Vol. II, p. 63, L. 19 – p. 64, L. 7.

At one time, Doyle had apparently considered transferring it to Ron, but thought better of it and stated in a letter to the Forest Service on March 10, 1977 (Pl. Ex. 2(h)): “We have decided that there will not be a transfer of ownership of our cabin to Ronald D. Arnold. Our plan is to include that transfer via a drawing of will.”

Bette did survive and was awarded the property. Tr. Vol. I, p. 42, L. 14-19.

Bette was not really interested in the cabin and therefore gave it to Ron and Dorothy Arnold and Steve and Toni Snider, in accordance with Doyle’s wishes. Tr. Vol. I, p. 7, L. 23 – p. 8, L. 17; p. 11, L. 1-9 (Testimony of Earlene Taylor); Tr. Vol. I, p. 29, L. 3-6; p. 32, L. 22- p. 33, L. 1 (Testimony of Betty Jean Arnold); Tr. Vol. I, p. 71, L. 17 – L. 25; p. 74, L. 3-6 (Testimony of Toni Snider); Tr. Vol. I, p. 143, L. 24- p. 144, L. 8 (Testimony of Steve Snider).

On January 6, 1983, Ronald D. Arnold, Dorothy A. Arnold, Bette F. Arnold, Mary A. Snider, and Steven J. Snider, all signed a “Request for Termination of and Application for Special Use Permit” stating that all right, title and interest of Bette F. Arnold and Doyle Arnold had been conveyed, and requesting that the Special Use Permit be transferred into the names of “Ronald D. or Dorothy A. Arnold and Steven J. or Mary A. Snider”. (Pl. Ex. 2(d)); Tr. Vol. I, p. 42, L. 20 – p. 44, L. 6.

The parties have different recollections about the circumstances under which this document was executed. Toni recalled that all the parties had met together at the Forest Service office in Cascade to sign. (Aff. Mary A. Snider, ¶ 4, R. Vol. I, p. 184). Steve remembers it differently, with Bette having signed first, probably at her home, followed by Ron, Dorothy, Steve and Toni all getting together at the Arnold’s home to sign. Tr. Vol. I, p. 140, L. 7 – p. 141 L. 6. This memory is consistent with the Arnold’s memory of the time and place, for the most part. Tr. Vol. II, p. 89, L. 18-p. 90, L. 5; p. 96, L. 19-25 (Ron Arnold Testimony); Tr. Vol. II, p. 202, L. 17- p. 203, L. 23 (Testimony of Dorothy Arnold).

All five names were on the document at the time it was signed on January 6, 1983. No names were added later. There was no conversation among any of the parties to the effect that the permit was being transferred only to Ron and Dorothy and that Steve and Mary would be allowed to “use” the cabin. Tr. Vol. I, p. 45, L. 2-14 (Testimony of Toni Snider); Tr. Vol. I, p. 141, L. 7-9 (Testimony of Steve Snider).

The transfer form indicates that the transfer was to both families without reservation or condition. The contact person for correspondence was to be Ronald D. Arnold. The application was forwarded to the Cascade Ranger, Charles Jones, who signed it on January 14, 1983, recommending approval. (Pl. Ex. 2(d)).

On February 1, 1983, the Cascade Ranger sent a special use permit containing only the names of Ron and Dorothy Arnold to Ron Arnold (Pl. Ex. 2(e)) with instructions to sign the permit and pay the fee to the Supervisor’s office in Boise. (Pl. Ex. 2(k))

On February 7, 1983, the District Ranger sent a letter to Ronald Arnold (Pl. Ex. 2(l)) explaining that, despite the intention of the parties that the new permit be issued in the names of the Arnolds and Sniders, the reason only the names of Ronald and Dorothy Arnold were on the permit was because a new Forest Service policy had been instituted, as follows:

“A special use permit naming more than one person or legal entity will not be issued except where requested by a husband and wife.”

The Forest Service Ranger had taken it upon himself to simply put the permit into the names of Ronald and Dorothy Arnold, omitting the names of Steve and Mary Snider.

Toni never actually saw the letter or the Special Use Permit until recently in the course of this litigation. Tr. Vol. I, p. 45, L. 25 – p. 46, L. 14.

When Ron received that letter he called Toni to discuss it. In the phone conversation, Ron told Toni that the Forest Service could not put the permit in both families' names, because of a new policy. He did not mention anything to her about them being able to form some type of legal entity to hold title.

In that conversation, Ron and Toni agreed that the permit could remain in the names of Ronald D. Arnold and Dorothy A. Arnold, as the Forest Ranger had done, with the understanding that it was being held for the mutual benefit of both families. Ron told Toni they could draw up some kind of an agreement between them if she wanted, but he didn't think it was necessary. Toni completely trusted him and did not believe a written agreement was necessary at the time. Tr. Vol. I, p. 46, L. 15 – p. 48, L. 11.

Steve remembers a subsequent meeting at the Arnold's house where that information was discussed and confirmed. Tr. Vol. I, p. 141, L. 23 – p. 143, L. 17.

Ron did not say that he considered he and Dorothy to be the sole owners of the cabin and that Steve and Mary could use it. In fact, the *only time* Ron ever told Toni that he considered the cabin to belong solely to he and Dorothy was in July or August of 2009 at JB's Restaurant in Meridian. Tr. Vol. I, p. 66, L. 5 – p. 68, L. 7.

Contrary to the information presented to the court by Ron Arnold and Bette Arnold, on at least four occasions since the permit was transferred in January of 1983, Bette Arnold has stated to various people that her intention was for the permit and cabin to go to both Ron and Toni.

The first occasion was approximately two weeks after signing the document transferring the permit. Steve and Toni went to Bette Arnold's house to thank her for signing over the cabin to the four of them. Her response was that it was what their dad had wanted and she (Bette) had always intended to sign it over to "Toni and Ron." She said she had no moral claim to it as it had been the family cabin since long before she and Doyle had gotten married. (Work on the cabin was begun in the mid-1950's and Doyle and Bette did not get married until approximately 1973). Tr. Vol. I, p. 130, L. 8 – p. 131, L. 4 (Aff. of Mary A. Snider, ¶ 8, R. Vol. I., p. 186); Tr. Vol. I, p. 143, L. 18 – p. 144, L. 8 (Testimony of Steve Snider).

Another occasion was also shortly after the transfer in January of 1983, when Bette stated to Earlene Taylor that she had signed the cabin over to Ron and Toni, "just as their father had wanted". Tr. Vol. I, p. 7, L. 23 – p. 11, L. 9.

The third occasion was in the late summer of 2009, when Steve and Toni went to Bette's house to discuss it with her. She stated that as far as she was concerned she had done what Doyle had wanted. She considered the cabin to belong to "you kids" and that it had never really been hers. She added that she didn't think what Ron was doing was right. Tr. Vol. I, p. 69, L. 14 – p. 72, L. 4 (Testimony of Toni Snider); Tr. Vol. II, p. 8, L. 20 – p. 10, L. 11 (Testimony of Steve Snider).

The final occasion was in October of 2009 when aunt Betty Jean Arnold and Toni took Bette to lunch. She reiterated that she had signed it over to "you kids" and that was the end of the story. Tr. Vol. I, p. 72, L. 5 – p. 74, L. 11 (Testimony of Mary Snider); Tr. Vol. I, p. 26, L. 1 – p. 33, L. 1 (Testimony of Betty Jean Arnold).

From 1983 until recently the parties' course of conduct has been entirely consistent with joint ownership.

Until Ron took it down sometime in 2009 (Tr. Vol. II, p. 182, L. 9 – 11) there was a sign in front of the cabin for many years that said “Arnold/Snider.” Tr. Vol. I, p. 51, L. 6 – 13.

Toni's family and Ron's family have shared the use of the cabin on an essentially equal basis. Tr. Vol. I, p. 48, L. 12 – p. 50, L. 20 (Testimony of Toni Snider); Tr. Vol. I, p. 144, L. 9 – p. 145, L. 7 (Testimony of Steve Snider).

They have also shared the expenses, including but not limited to lease payments to the Forest Service, personal property taxes to Valley County, Idaho, utilities, membership dues to the homeowners association, and maintenance expenses. Ron kept all the records pertaining to the cabin, including the records of the expenses, and several times each year he would call Toni to let her know what the lease payments, taxes, and insurance were. Ron would pay the bills and Toni would reimburse him for her half. In 2009 and 2010, since Ron no longer told them the exact expenses, they tendered estimated amounts of \$600 per year, but those tenders were refused. Tr. Vol. I, p. 51, L. 14 – p. 56, L. 5 (Testimony of Mary Snider) (Pl. Ex. 4 and 5).

Unfortunately, most of the Sniders' records, including checks, were lost in a flood of their basement in 2009, so they were unable to document the full extent of their cost-sharing. Tr. Vol. I, p. 53, L. 25 – p. 54, L. 3.

Since 1983 the Sniders have also shared the labor and expense of repairs and improvements to the property, and have done some improvements on their own. Tr. Vol. I, p. 57, L. 16 – p. 61, L. 17 (Testimony of Toni Snider); Tr. Vol. I, p. 145, L. 8 – Vol. II, p. 8, L. 19 (Testimony of Steve Snider); (Pl. Ex. 4, 5, and 10)

It is probably true, based on the totality of the evidence, that Ron and Dorothy did somewhat more than Steve and Toni, because Steve was working for the BLM in the summers and was not always available. Also, Ron enjoyed the work and his nature

dictated that he do it his way, according to his time schedule. Tr. Vol. I, p. 138, L. 23 – p. 140, L. 6.

All parties participated in the activities and work of the cabin owner’s association, and Steve and Toni both held offices over the years, as well as helping maintain the community water system. Tr. Vol. I, p. 56, L. 6 – p. 57, L. 15 (Testimony of Toni Snider); Tr. Vol. II, p. 5, L. 14 – p. 6, L. 14 (Testimony of Steve Snider).

Based on a conversation with the local ranger in 2005, the parties mistakenly believed that they needed something more from Bette to transfer ownership of the improvements (which had in fact already been transferred in 1983). Steve offered to go talk to her, but Ron said he would do it. He drew up a “Bill of Sale” (Pl. Ex. 3), and took it to Bette for her signature. It confirms that the title was held by Ron, but that the intention of Doyle Arnold was that the cabin be shared. The document states:

“This transfer is in agreement with the intentions of my late husband, Francis Doyle Arnold. Further, his intent was that the cabin and property be shared with Mary A. Snider (sister of Ronald D. Arnold).”

When Steve and Toni first saw the document 14 months later, on approximately August 22, 2006 (Pl. Ex. 3(a)), they were not concerned because it just made the legal title to the cabin match the legal title to the permit, and reiterated that it was to be shared with Toni, as was their father’s intention. Toni never understood it to change anything and still considered her and Steve to be co-owners with Ron and Dorothy. Tr. Vol. I, p. 62, L. 6 – p. 66, L. 4; Tr. Vol. I, p. 103, L. 21 – p. 107, L. 15.

Toni categorically denies that Ron told her at this time that he considered the permit and the cabin as belonging only to he and Dorothy. Tr. Vol. I, p. 65, L. 9 – 25.

On several occasions since 1983, Steve and Toni spoke casually to one of the Forest Service representatives about getting their names on the lease, but were told the policy had not changed, and they could not have their names added because of the restriction to only husband and wife. Aff. Mary Snider, ¶ 13, R. Vol. I, p. 187.

Until recently, Steve and Toni never understood that a legal entity could have been formed to own the cabin. Tr. Vol. I, p. 133, L. 2 – p. 134, L. 3.

Toni noticed in the past few years that the “climate” of the Sniders’ relationship with Ron and Dorothy began to change. Ron and Dorothy were not forthcoming about expenses, and Toni had to ask repeatedly to find out the Snider’s share of expenses. The things she bought for the cabin were taken down. Communication was poor.

Finally, she confronted Ron in approximately July or August of 2009 at a lunch meeting at JB’s Restaurant in Meridian. There Ron told Toni, *for the first time*, that he considered the cabin to be his alone, to be passed down to his children, but that Steve and Toni could continue to use it. Tr. Vol. I, p. 66, L. 5 – p. 69, L. 8.

Ron and Dorothy have also demonstrated that they understood the cabin to be half owned by the Sniders by attempting to arrange a buy-out of the Sniders’ interest, or offering to sell their interest. Tr. Vol. I, p. 75, L. 3 - 22.

Ron also admitted to Frank Jardine, a mutual family friend of both parties, that the cabin was jointly owned during a discussion in the mid, 1980’s. Tr. Vol. I, p. 13, L. 13 – p. 24, L. 16.

ADDITIONAL ISSUES PRESENTED ON APPEAL

There are no additional issues presented on appeal.

ATTORNEY FEES ON APPEAL

Respondents seek to recover their costs and attorney’s fees on appeal pursuant to Idaho Code §12-121, on the grounds that the appeal is brought frivolously, unreasonably, or without foundation.

When an appellant does not identify a finding of fact that is not supported by substantial and competent evidence, and the appellate court is simply asked to second-guess factual determinations and is not asked to establish new legal standards, nor modify or clarify existing standards, the appeal has been brought frivolously, unreasonably and without foundation. *Gibson v. Ada County*, 142 Idaho 746, 133 P. 3rd 1211 (Idaho 2006), citing *Fairchild v. Fairchild*, 106 Idaho 147 , 152, 676 P. 2d 722, 727 (Ct.App.1984).

ARGUMENT

DID THE DISTRICT COURT FAIL TO PROPERLY APPLY THE CLEAR AND CONVINCING EVIDENCE STANDARD IN FINDING THAT SNIDERS WERE ENTITLED TO IMPOSITION OF A CONSTRUCTIVE TRUST

A. Applicable Legal Standards.

(1) Respondents do not dispute that “clear and convincing” evidence is required.

There is no question that the Sniders were required to prove their claim to the existence of a trust by clear and convincing evidence. It is asserted, however, that they have met that burden. In *Matter of Courtright’s Estate*, this Court set forth the principle that such a burden is met by presentation of substantial and competent evidence to support a finding.

Review by this court of findings of fact by a trial court in a case where a fact must be established by Clear and Convincing evidence is simply to determine whether there is substantial and competent evidence to sustain that finding. Where there is evidence in the record from which the trial court might conclude the issue has been resolved by clear and convincing evidence, this court will not set its resolution aside. *Lomas & Nettleton Co. v. [99 Idaho 579] Page 269 Tiger Enterprises, Inc.*, 99 Idaho 539, 585 P.2d 949 (1978); *Nelson v. Armstrong*, 99 Idaho 422, 582 P.2d 1100 (1978); *Smith v. Bogert*, 96 Idaho 522, 531 P.2d 1167 (1975); *Greene v. Cooke*, 96 Idaho 48, 524 P.2d 176 (1973); *Idaho First Nat’l Bank v. First Nat’l Bank of Caldwell*, 81 Idaho 285, 340 P.2d 1094 (1959); *Estes v. Magee*, 62 Idaho 82, 109 P.2d 631 (1940); *Parks v. Muledy*, 49 Idaho 546, 290 P. 205 (1930); *Wright v. Rosebaugh*, 46 Idaho 526, 269 P. 98 (1928); *Panhandle Lumber Co. v. Rancour*, 24 Idaho 603, 135 P. 558 (1913). See, *Ed Sparks & Sons v. Joe Campbell Const. Co.*, 99 Idaho 139, 578 P.2d 681 (1978). Thus, where a trial court finds certain

facts to have been established by clear and convincing evidence the trial court's determination "(will) not be set aside unless clearly erroneous." I.R.C.P. 52(a). *Matter of Courtright's Estate*, 99 Idaho 575, 586 P.2d 265 (Idaho 1978)

In *Christensen v. Nelson*, 125 Idaho 663, 873 P.2d 917 (Idaho App. 1994)

the Court elaborated:

When reviewing findings of fact by a trial court in a case where a fact must be established by clear and convincing evidence, our job is simply to determine whether there is substantial and competent evidence to sustain that finding. *Matter of Estate of Courtright*, 99 Idaho 575, 578, 586 P.2d 265, 268 (1978); *Hofmeister v. Bauer*, 110 Idaho 960, Page 920 [125 Idaho 666] 719 P.2d 1220 (Ct.App.1986). "Substantial and competent" evidence is evidence that a reasonable trier of fact would accept and rely upon in determining whether a disputed point of fact has been proven. *PFC, Inc. v. Rockland Telephone Co., Inc.*, 121 Idaho 1036, 1038, 829 P.2d 1385, 1387 (Ct.App.1992).

(2) Where facts have been established by clear and convincing evidence, the trial court's determination will not be set aside unless clearly erroneous.

Findings of fact shall not be set aside unless clearly erroneous. In the application of this principle regard shall be given to the special opportunity of the trial court to judge the credibility of those witnesses who appear personally before it. *I.R.C.P. Rule 52(a)*

When a district court sits without a jury and issues specific findings of fact, our review of the findings of fact below is limited. We will not set aside the lower court's findings of fact unless they are clearly erroneous. I.R.C.P. 52(a). We do not weigh the evidence, nor do we substitute our view of the facts for the view of the trial judge. We defer especially to the district court's opportunity to judge the credibility of witnesses appearing personally before it. I.R.C.P. 52(a); *Rueth v. State*, 103 Idaho 74, 644 P.2d 1333 (1982); *County of Canyon v. Wilkerson*, 123 Idaho 377, 848 P.2d 435 (Ct.App.1993). *Christensen v. Nelson*, *Supra*.

(3) Application of the law to the facts is subject to free review.

Unlike our review of findings of fact, application of the law to the facts is subject to a free review. *Kawai Farms, Inc. v. Longstreet*, 121 Idaho 610, 613, 826 P.2d 1322, 1325 (1992); *Cole v. Kunzler*, 115 Idaho 552, 555, 768 P.2d 815, 818 (Ct.App.1989); Standards of Appellate Review § 3.2, IDAHO APPELLATE HANDBOOK (Idaho Law Foundation, Inc. 1985). *Christensen v. Nelson*, *supra*.

The law is clear that the evaluation of the credibility of witnesses is within the exclusive province of the trial judge, and so long as he based his findings upon substantial and competent evidence, his findings will not be set aside unless clearly erroneous.

(4) The trial court set forth and applied the correct legal principles applicable to constructive trusts.

In the court's Conclusions of Law, it stated as follows:

“Constructive trusts are raised by equity for the purpose of working out right and justice where there is no intention of the party to create a relation and often directly contrary to the intention of the one holding the legal title *Mikesell v. NewWorld Development Corp.*, 122 Idaho 868; citing *Hanger v. Hess*, 49 Idaho 325 (1930). If one party obtains legal title to property, not only by fraud or by violation of confidence or of fiduciary relation, but in any other unconscionable manner, so that he cannot equitably retain the property which really belongs to another, equity carries out its theory of double ownership, equitable and legal, by impressing a constructive trust upon the property in favor of the one who is in good conscience entitled to it and who is considered in equity as the beneficial owner. *Id.* Furthermore, “Constructive trusts are created by courts of equity whenever title to property is found in one who in fairness ought not to be allowed to retain it.” *Klein v. Shaw*, 109 Idaho 237, 240, 706 P. 2d 1348, 1351 (Ct. App. 1985) (citing G.G. Bogert & G.T. Bogert, *The Law of Trusts & Trustees* § 471 (1978)).

The Court then found that all the elements which warrant the imposition of a constructive trust are present in this case. R. Vol. II, p. 366, L. 14 – p. 367, L. 4.

(5) In the alternative, the evidence would support the imposition of a resulting trust.

As a general rule a constructive trust grows out of fraud or confidential or fiduciary relations existing between the parties. Yet we think the principle upon which the doctrine is founded is broader than that. While it is true in this case the ordinary confidential or fiduciary relations are not shown, the evidence does disclose that while respondent had and occupied his separate room, nevertheless the parties lived under the same roof and dined at the same table, the respondent furnishing the fuel and provisions, the appellant doing the housework. Respondent testified he considered appellant a good housekeeper and a good cook. We think the goodwill and confidence of an old man

without a home may be won through comfort and good cooking alone quite as completely as the doctrine in question requires.

Whether the allegations of the complaint and the proof are sufficient to support a resulting trust, as that doctrine is technically known in the law, or only the broader doctrine of constructive trust, is not controlling. Manifestly the complaint, the proof, and the findings of the court are sufficient for the establishment of a constructive trust as that equitable principle has been approved by this court. Cancellation of the deed is not dependent upon which of these trusts was established. *Hanger v. Hess*, supra.

We also uphold the result of the district court's decision under a theory of constructive trust. *Andre v. Morrow*, 106 Idaho 455, 459, 680 P.2d 1355, 1359 (1984) (appellate court may affirm result of lower court's judgment on legal theory different from one employed by the lower court). *Miksell v. Newworld Development Corp.*, Supra

B. Discussion.

The District Judge had extensive exposure to the facts of this case, as presented by both parties, well prior to the actual trial, by virtue of the proceedings on the Arnolds' Motion for Summary Judgment. He had read the respective affidavits of the parties, and reviewed the documents that had been submitted. During the course of the two-day trial, he had the opportunity to hear the testimony given by the parties, observe their demeanor, and weigh their credibility.

I.R.C.P. 52(a) and the decisions of this court clearly state that the findings made by the trial judge will not be set aside unless they are clearly erroneous, with regard being given to the special opportunity of the trial court to judge the credibility of those witnesses who appear personally before it. This court is not to weigh the evidence or substitute its view of the facts for the view of the trial judge. This court is to defer especially to the district court's opportunity to judge the credibility of witnesses appearing personally before it.

BETTE GAVE THE CABIN TO BOTH FAMILIES.

The court essentially found that Bette Arnold had intended to, and did, give the permit and cabin to both families, and specifically found that the testimony of Bette Arnold to the contrary was not credible. The evidence in the record supporting these findings includes the following:

Intention of Doyle Arnold.

Repeatedly during the trial, the intention of Doyle Arnold as to the disposition of the cabin was brought up by both sides. Both sides insisted that they were doing what he had wanted. Despite the testimony of both Bette and Ron that Doyle wanted Ron to have the cabin, that intention is directly in conflict with the only written statements of his intention available to us – his letter to the Forest Service of March 10, 1977, (Pl. Ex. 2(h) and his Last Will and Testament (Pl. Ex. 1).

At one time, Doyle had apparently considered transferring the cabin to Ron, but thought better of it and stated in a letter to the Forest Service on March 10, 1977 (Pl. Ex. 2(h)): “We have decided that there will not be a transfer of ownership of our cabin to Ronald D. Arnold. Our plan is to include that transfer via a drawing of will.”

According to the terms of his Last Will and Testament (Pl. Ex. 1), all property owned at the time of his death was given to Bette Marie Arnold, if she survived him. In the event she did not survive, the Special Use Permit, cabin and appurtenances were to be given to his children, Ronald D. Arnold and Mary A. Snider, “share and share alike.” Bette had also made a will of her own with identical provisions. Tr. Vol. II, p. 63, L. 19 – p. 64, L. 7.

Bette admitted on cross-examination that she had agreed with Doyle to take care of the transfer of the cabin through their wills. Tr. Vol. II, p. 60, L. 18-21. She also admitted that what was written in the wills was a written statement of his wishes. Tr. Vol. II, p. 65, L. 9 – 12.

In 2005, she signed another document that reiterated her husband's intention that the property be shared between Ron and Toni. (Pl. Ex. 3).

The Transfer Form.

A few months after Doyle's death, the Sniders and Arnolds, who all knew of the provisions of his will, and that Bette had become the owner of the property, were concerned about what she might do with it. Ron agreed to try to get her to sign it over to Toni and Ron. Tr. Vol. I, p. 140, L. 7 – 25.

The paperwork used to make the transfer was a Forest Service form (Pl. Ex. 2(d)). The form unequivocally states that Bette is thereby transferring her interest to both the Sniders and the Arnolds.

Bette's Statements to Others.

On at least four occasions thereafter Bette stated to various people that her intention was for the permit and cabin to go to both Ron and Toni.

The first occasion was approximately two weeks after signing the document transferring the permit. Steve and Toni went to Bette Arnold's house to thank her for signing over the cabin to the four of them. Her response was that it was what their dad had wanted and she (Bette) had always intended to sign it over to "Toni and Ron." She said she had no moral claim to it as it had been the family cabin since long before she and Doyle had gotten married. (Work on the cabin was begun in the mid-1950's and Doyle

and Bette did not get married until approximately 1973). Tr. Vol. I, p. 130, L. 8 – p. 131, L. 4 (Testimony of Toni Snider); (Aff. Mary A. Snider. ¶ 8, R. Vol. I., p. 186); Tr. Vol. I, p. 143, L. 18 – p. 144, L. 8 (Testimony of Steve Snider).

Another occasion was also shortly after the transfer in January of 1983, when Bette stated to Earlene Taylor that she had signed the cabin over to Ron and Toni, “just as their father had wanted”. Tr. Vol. I, p. 7, L. 23 – p. 11, L. 9. Earlene Taylor has no bias in favor of Toni. She is a cousin to both Ron and Toni. She went on to state that it was “kind of family knowledge that the cabin would go to Ron and Toni.” Tr. Vol. I., p. 11, L. 25 – p. 12, L. 1).

The third occasion was in the late summer of 2009, when Steve and Toni went to Bette’s house to discuss it with her. She stated that as far as she was concerned she had done what Doyle had wanted. She considered the cabin to belong to “you kids” and that it had never really been hers. She added that she didn’t think what Ron was doing was right. Tr. Vol. I, p. 69, L. 14 – p. 72, L. 4 (Testimony of Toni Snider); Tr. Vol. II, p. 8, L. 20 – p. 10, L. 11 (Testimony of Steve Snider).

The final occasion was in October of 2009 when aunt Betty Jean Arnold and Toni took Bette to lunch. She reiterated that she had signed it over to “you kids” and that was the end of the story. Tr. Vol. I, p. 72, L. 5 – p. 74, L. 11 (Testimony of Toni Snider); Tr. Vol. I, p. 26, L. 1 – p. 33, L. 1 (Testimony of Betty Jean Arnold).

Betty Jean Arnold likewise had no bias, as she is related by marriage to both Ron and Toni. She accepted an invitation from Toni to go to lunch with Bette, and overheard Bette’s statement to Toni.

Bette’s Poor Memory.

On direct examination, Bette testified that she “didn’t know exactly” what happened when she signed off on the cabin (Tr. Vol. II, p. 39, L. 6-8), and she didn’t

recall any discussions that she had at the time she signed it (Tr. Vol. II, p. 40, L. 15-19), that she couldn't recall whose names were on the form when she signed it (Tr. Vol. II, p. 41, L. 14-24), and that she did not recall any discussions with the Sniders about transfer of the cabin Tr. Vol. II, P. 42, L. 7-10.

On one hand she testified that she had discussed the matter of the cabin with her husband at "great lengths" and decided that they needed to have wills made, and "that was what we were going to do, that was what was going to happen to the cabin". Tr. Vol. II, p. 43, L. 17- p. 44, L. 5). In the next breath, she said her intent was to leave it to Ron. Tr. Vol. II, p. 44, L. 6-8.

When shown the "bill of sale" she had signed at Ron's request in 2005 (Pl. Ex. 3) she didn't recognize it, except by her signature (Tr. Vol. II, p. 47, L. 3 – 7) and didn't remember any of the language in it or the circumstances of signing it. Tr. Vol. II, p. 48, L. 3 – 19. When counsel read her the part that said: "This transfer is in agreement with the intentions of my late husband, Francis Doyle Arnold. Further, his intent was that the cabin and property be shared with Mary Snider, sister of Ronald Arnold" he asked her what the word "shared" meant, and her response was: "Just to be able to go to the cabin like we always had." Tr. Vol. II, p. 49, L. 4-9.

She couldn't recall meeting with Steve and Toni in 2009, and thought they had a phone conversation about Doyle's Social Security Number. Tr. Vol. II, p. 49, L. 20 – p. 50, L. 17. In fact, however, Steve and Toni *had* been to her house for a personal visit and had been given Doyle's driver's license by Bette at that meeting. Tr. Vol. I, p. 69, L. 14 – p. 72, L. 4; Tr. Vol. II, p. 9, L. 12 – p. 10, L. 11. They have Doyle's driver's license as proof of the actual meeting. (Pl. Ex. 9).

On cross-examination, Bette confirmed that she did not remember the circumstances of signing the transfer papers, what names were on it, or even where she was when she signed it. Tr. Vol. II, p. 65, L. 13 – p. 68, L. 20. When questioned about the notion that only one person's name could be on the new special use permit, she believed

that her husband, Doyle, had told her that, even though he had been dead for several months before the Forest Service policy was changed. Tr. Vol. II, p. 69, L. 11- 20.

When confronted about the fact that she had given Doyle's driver's license to Toni and Steve, she admitted that there "could have" been a meeting at her house, after all. Tr. Vol. II, p. 71, L. 11 – p. 72, L. 17.

Ron's Influence on Bette.

Bette testified on cross-examination that Ron had been helping her with her finances for the past few months, and she was very grateful. Tr. Vol. II, p. 53, L. 23 – p. 54. L. 5. This testimony was elicited at the trial of this matter on November 23, 2010. Coincidentally, all the affidavits submitted by Bette were prepared during roughly that same time period. (The Affidavit of Bette F. Arnold submitted as part of the Arnold's summary judgment materials, is undated. The notary statement indicates that it was signed January 6, 2010, but the date appears to be a mistake, as it is identical with the expiration date of the notary, and the affidavit was mailed August 17, 2010. R. Vol. I, p. 90-93 The Second Affidavit of Bette M. Arnold appears to have been signed October 8, 2010. R. Vol. II, p 272-277).

All the relevant documents pertaining to this matter that Bette signed, were either prepared by Ron, or by Ron's attorney. She simply signed whatever was put in front of her.

Appellant has made much of the supposedly strained relationship between Bette and Toni. Toni acknowledged that something had gone wrong with the relationship, and to this day she still does not know what went wrong. She made it clear, however, that the strain did not appear until several months after the cabin had been transferred to the Arnolds and Sniders. In between, she and Steve had been to Bette's house to thank her and had a nice visit. Tr. Vol. I, p. 79, L. 19 – p. 82, L. 4. They also had a cordial visit in 2009. Tr. Vol. I, p. 69, L. 14 – p. 72, L. 4.

Considering all the circumstances presented to the court, it was well within the court's discretion to find that Bette's testimony was not credible.

THE COURT FOUND THAT TONI'S TESTIMONY WAS MORE CREDIBLE THAN RON'S

Evidence supporting this finding can be found in the following forms:

Ron's Version of the Circumstances Surrounding the Transfer from Bette is Not Believable.

The version of the facts presented by the Arnolds is frankly, unbelievable, and flies in the face of the written documents.

The application for transfer signed in January of 1983 clearly specifies that the Arnolds and Sniders were all transferees. The Sniders' names are actually typed on the lines and the Arnolds' names are typed above, negating the idea that the Snider's names were added later, and supporting the version of Toni and Steve that all the names were placed on the form at the same time with both families present. (Pl. Ex. 2(d), Part II)

Ron testified that he knew in advance that the Forest Service would not issue a permit in the names of both families, that he told her that in advance, and that she wanted him to put their names on anyway. He said he was going to go along with Toni's request, and add their names, as an "accommodation" to them, with the advance knowledge that the Forest Service would treat it as "insignificant" and issue the permit to only Ron and Dorothy anyway. Tr. Vol. II, p. 93, L. 4 – p. 96, L. 18.

The notion that Ron knew in advance that the Forest Service would not accept both names, and would consider the addition of the Sniders' names "insignificant", is contrary to the written evidence.

Ron testified on cross-examination that his point of contact with the Forest Service had been Charles Jones, the District Ranger. Tr. Vol. II, p. 171, L. 8 – p. 172, L. 13. Accordingly, Mr. Jones would have been the one who allegedly told him in advance

about the policy and that the permit would be issued in only the Arnolds' names, no matter what was on the application.

However, page two of the application is signed by Charles Jones on January 14, 1983, *recommending approval of the application as submitted*. Would he have made that recommendation if he knew in advance that the application would be rejected?

The letter of February 7, 1983 to Ron from Charles Jones (Pl. Ex. 2(1)) is overwhelming proof that *none* of the players knew in advance that the permit would not be issued in the names of both families. It begins:

“Dear Mr. Arnold: I have not been able to reach you by phone so I thought I had better write to let you know why the permit only had your name on it.”

Would he have written such a letter if he had known in advance that the permit would not be issued in both names? Of course not. The Forest Service policy had just changed.

Ron testified that he put Steve and Toni's names on the application “later” to try to keep peace in the family and to make Toni feel better, because she insisted on having her name on the application even though everyone knew in advance that it would be rejected.

How would it have made her feel any better to have her name on the application under those conditions?

Ron also testified that one of the reasons he put the Sniders' names on the application was so the Forest Service would know who was using the cabin. However, he later admitted that the Forest Service does not care about the identity of guests. Tr. Vol. II, p. 180, L. 14 – p. 181, L. 12.

If all the parties knew in advance that only the names of one family could be on a permit, why would they all agree to perform a meaningless gesture by submitting an application with more names than would be accepted, why would the forest ranger

recommend approval, and why would the forest ranger feel the need later to explain why it did not happen according to their expectations? How would going through a charade like that have made Toni feel any better or bring peace to the family?

The bottom line is that the whole bizarre explanation makes no sense and the court had ample reason to discredit it.

Attacks on Toni's Credibility.

Arnolds make much of Toni's mistaken recollection set forth in her affidavit that the transfer papers were signed in Cascade with all parties present. The Court, however, saw that as an honest mistake that did not detract from the remainder of her testimony. Steve pointed out that there had, in fact, been other occasions, at least one, in which all the parties had met in Cascade, so it was easy to see how she might have been confused about that venue, after 26 years. Tr. Vol. II, p. 10, L. 17 – p. 11, L. 4.

Appellants also allege that Toni's testimony should be discredited entirely because she had once been accused of stealing from the Kuna School District where she was employed. Tr. Vol. I, p. 79, L. 3 – 18. However, the truth of the matter was that she had been falsely accused, did not steal anything, and resigned of her own volition without being asked, just because the trust had been broken between her and the district. Tr. Vol. I, p. 131, L. 17 – p. 132, L. 20)

Interestingly, a similar accusation had apparently been made against Dorothy at her work, leading to her resignation as well. Tr. Vol. I, p. 132, L. 21 – p. 133. L. 1.

Corroboration of Frank Jardine.

The credibility of Steve and Toni and Steve was bolstered by the testimony of Frank Jardine, another disinterested witness who is friends with both the Arnolds and Sniders. One of his best friends is Dorothy Arnold's brother. Mr. Jardine had been a guest at the cabin, had seen the "Arnold/Snider" sign in front of the place, and knew from his

association with both parties that the property was jointly owned by the Arnolds and Sniders. He was an insurance agent in the mid-1980's and he recalled a meeting with Ron at Ron's school wherein Ron asked if he could give him a quote on insurance for the cabin. In that meeting, Ron admitted that the cabin was jointly owned with the Sniders. Tr. Vol. I, p. 13, L. 9 – p. 23, L. 25.

Course of Conduct.

Most importantly, the subsequent course of conduct by the parties is consistent with joint ownership. As pointed out above, from the time the permit was transferred in 1983, the parties shared the use on an equal basis. The court found it significant that on one occasion, Ron called Toni and asked for permission to alter the normal arrangement for use – something that an absolute owner would not ask of a “guest”. Tr. Vol. I, p. 48, L. 15 – p. 49, L. 9.

The parties also shared expenses for the cabin and shared the cost of improvements and maintenance. The permit, insurance and utilities were in Ron's name and he kept the books. Toni would send checks in response to the Arnold's requests and believed she was paying half. Tr. Vol. I, p. 51, L.14 – p. 56, L. 5; (Pl. Ex. 4). The court found it significant that Toni consistently called the Arnolds to inquire about the expenses to be sure the Sniders were paying their share. Although many of their checks had been lost in a flood a few years earlier, the Sniders were able to produce a number of canceled checks from recent years, many of which contain specific references, such as “taxes” or “insurance” or “lease”, and which are for precise amounts of dollars and cents, as opposed to whole round numbers that one would expect from someone making a “voluntary contribution” in exchange for the use of the cabin. (Pl. Ex. 4)

For the past two years, following Ron's announcement to Toni that the Arnolds were claiming sole ownership of the cabin, Arnolds have refused to provide information about the expenses or to accept checks from Sniders. Sniders have been forced to

estimate the annual cost and have tendered checks in the amount of \$600 each year, but those tenders have been refused. Tr. Vol. I, p. 56, L. 3 – 5.

Appellants are critical of the fact that Sniders could not produce checks equal to one-half of the total expenses for the cabin for the past 26 years, and opine that such failure should cut against their credibility. However, they ignore the fact that the Arnolds kept no record of the contributions made by the Sniders and were not able to produce more than two or three canceled checks of their own in response to Sniders discovery requests. Tr. Vol. II, p. 156, L. 20 – p. 157, L. 25.

Steve and Toni both testified that they would *never* have contributed the labor and money for improvements, repairs and personal property, would not have done the things they did, and would never have paid half the expenses if they did not believe they were joint owners. If they had known from the beginning that Ron and Dorothy were claiming sole ownership, they would have had a confrontation back in 1983. Tr. Vol. I, p. 74, L. 14 – p. 75, L. 2; Tr. Vol. II, p. 11, L. 5 – p. 12, L. 7. No rational person would invest so much in a property that they only had the use of.

Would they have served faithfully in the cabin owner's association, held offices, and worked on the community water system if they were merely guests? Of course not.

Based upon all of the foregoing facts, the court found that the case presented by Steve and Toni Snider was accurate and truthful, and that the contrary assertions of Ron and Dorothy Arnold were not. Each of the specific findings of the court is supported by substantial and competent evidence.

**DID THE COURT'S DECISION DEPRIVE BETTE ARNOLD OF
THE RIGHT TO DISPOSE OF HER PROPERTY AS SHE SAW
FIT**

Court found that she *did* dispose of it as she saw fit, by giving it to the Arnolds and Sniders, and that her recent confusion is the result of advanced age and the manipulation of Ron Arnold. She was not deprived of any rights.

Furthermore, Bette Arnold is not a party to this litigation, and has no standing to raise an issue founded on an alleged violation of her rights.

Counsel has not cited any authority to support the notion that Bette's rights should be addressed by this court, or that the Arnolds might have standing on her behalf to raise such an issue. The argument is simply another rehashing of the conflicting testimony, with slightly different coloring, but still aimed at convincing this court to substitute its judgment for the trial judge as to the credibility of the witnesses that appeared before it in this proceeding.

CONCLUSION

For all the foregoing reasons, Respondents request that this court affirm the decision of the District Judge, and award attorneys fees and costs to Respondents.

Respectfully submitted this 2nd day of November, 2011.



Michael G. Pierce
Attorney for Respondents

United States Department of Agriculture
Forest Service

REQUEST FOR TERMINATION OF AND APPLICATION FOR SPECIAL USE PERMIT
(Ref: FSM 2716)

This report is authorized by the Organic Act of June 4, 1897 for the purpose of evaluating the requested actions and no permit may be issued until this form is completed.

PART I - REQUEST FOR TERMINATION (To be completed by Permittee)

TO: FOREST SUPERVISOR Boise National Forest NATIONAL FOREST

I (WE), THE UNDERSIGNED PERMITTEE(S) UNDER THAT CERTAIN SPECIAL USE PERMIT, DATED February 29, 19

AUTHORIZING ME (US) TO maintain a recreation residence at Paradise Valley
summer home area

* (CONVEYED ALL MY (OUR) RIGHT, TITLE, AND INTEREST IN AND TO THE IMPROVEMENTS LOCATED ON THE PARCEL COVERED BY SAID PERMIT.)

OR

* ~~ENTERED INTO A CONTRACT FOR THE SALE OF THE IMPROVEMENTS LOCATED ON THE PARCEL COVERED BY SAID PERMIT BUT HE~~
~~RETAINED TITLE TO SAID IMPROVEMENTS UNTIL COMPLETION OF PAYMENTS UNDER SAID CONTRACT WITH:~~

F. D. Arnold and Bette F. Arnold

(NAME OR NAMES)

4355 Castlewood Cr., Meridian, Idaho 83642

(ADDRESS)

ACCORDINGLY, I (WE) REQUEST THAT SAID SPECIAL-USE PERMIT BE TERMINATED. THE REMAINING BALANCE OF ANY FEES PREVIOUSLY PAID SHOULD BE CREDITED TO THE APPLICANT NAMED BELOW.

DATE: January 6, 19 83

F. D. Arnold - see attached death cert.

by Bette F. Arnold 1-6-83
(SIGNATURES OF ALL PERMITTEES LISTED ON PERMIT)

*STRIKE OUT INAPPLICABLE ALTERNATIVES

PART II - APPLICATION (To be completed by Applicant)

APPLICATION IS HEREBY MADE FOR A SPECIAL-USE PERMIT TO COVER THE SAME PARCEL OF LAND COVERED BY THE PERMIT REFERRED TO IN THE ABOVE REQUEST, AND FOR THE SAME PURPOSE OF SAID PERMIT, SUBJECT, HOWEVER, TO SUCH NEW CONDITIONS AND STIPULATIONS AS THE CIRCUMSTANCES MAY WARRANT.

I (WE) ACKNOWLEDGE THAT WHEN A NEW PERMIT IS ISSUED, A TRANSFER FEE OF \$ 25.00 IS CHARGED. IT WILL BE INCLUDED IN INITIAL PAYMENT FOR THE NEW PERMIT.

DATE: January 6, 19 83

Ronald D. or Dorothy A. Arnold

Steven J. or Mary A. Snider

(TYPE IN NAMES OF PROPOSED PERMITTEES)

By [Signature]
(signature)

BY Ronald D. Arnold Dorothy A. Arnold
(SIGNATURE)

St. 2 600 S. School St. Kuna, Id. 83634
(address)

4435 Cedarwood Dr., Meridian, Idaho 836
(ADDRESS)

(Over)

FS-2700-3a (6)

Please send all correspondence to Ronald D. Arnold
4435 Cedarwood Dr.
Meridian, Idaho 83642

PART III - RANGER'S REPORT ON APPLICATION

1. IS SITE NEEDED FOR HIGHER USE? DESCRIBE TENURE RECOMMENDATION. IF TERMINATION IS RECOMMENDED, ATTACH JUSTIF PER FSM 2721.23f.

No

2. WHAT IS THE CONDITION OF EXISTING IMPROVEMENTS?

Good

3. IS THE FEE FOR THE PERMIT APPROPRIATE? (Attach fee computation sheet if required)

Yes

4. IS THE PERMITTED AREA PROPERLY DESCRIBED? IF NOT, SHOW PROPER DESCRIPTION:

Yes

5. IS CURRENT MAP OF THE USE ATTACHED? No IS IT ADEQUATE? Yes IF NOT, EXPLAIN

6. DESCRIBE UNDESIRABLE SITUATIONS TO BE CORRECTED.

None - Complete construction of addition.

7. LIST MANDATORY AND SUGGESTED SPECIAL CLAUSES NOT PRINTED ON THE PERMIT FORM.

Same as existing permit, plus amendment.

REMARKS:

Recommend approval.

SUBMITTED (Signature) <i>Charles B. Jones</i>	TITLE DISTRICT RANGER	RANGER DISTRICT <i>Cascade</i>	DATE <i>1/4/41</i>
APPROVED (Signature) <i>[Signature]</i>	TITLE FOREST SUPERVISOR	FOREST	DATE

NOV 2 1982

State of Idaho
CERTIFICATE OF DEATH

State File No. _____
Local Reg. No. 115
Reg. Dist. No. 37

TYPE OR PRINT IN PERMANENT INK

1. DECEDENT - NAME Francis Doyle Arnold		MIDDLE		LAST		2. SEX Male	
3. RACE (White, Black, American Indian, etc.) White		4. AGE - Last Birthday (Yrs.) 59		5. DATE OF BIRTH (Mo., Day, Yr.) May 19, 1923		6. COUNTY OF DEATH Ada	
7. CITY, TOWN OR LOCATION OF DEATH Meridian		8. HOSPITAL OR OTHER INSTITUTION - Name (if not in either, give street and number) 4355 Castlewood Drive (at home)		9. IF HOSP. OR INST. (Indicate OP, Emer. Rm., Inpatient) (Specify) NA		10. WAS DECEDENT EVER IN U.S. ARMED FORCES? (Yes or No) Yes	
11. STATE OF BIRTH (If not in U.S.A., name country) Colorado		12. CITIZEN OF WHAT COUNTRY U.S.A.		13. MARRIED, NEVER MARRIED, WIDOWED, DIVORCED (Specify) Married		14. SURVIVING SPOUSE (If wife, give maiden name) Bette States	
15. SOCIAL SECURITY NUMBER [REDACTED]		16. USUAL OCCUPATION (Give kind of work done during most of working life, even if retired) Maintenance Man		17. KIND OF BUSINESS OR INDUSTRY Associated Dairies		18. RESIDENCE - STATE Idaho	
19. COUNTY Ada		20. CITY, TOWN OR LOCATION Meridian		21. STREET AND NUMBER 4355 Castlewood Drive		22. INSIDE CITY (Yes or No) No	
23. FATHER - NAME William Arnold		24. BIRTHPLACE Kansas		25. MOTHER - MAIDEN NAME Murtle Brookshire		26. BIRTHPLACE Kansas	
27. INFORMANT - NAME Mrs. Bette Arnold, wife		28. MAILING ADDRESS 4355 Castlewood Drive		29. CITY OR TOWN Meridian		30. STATE Idaho	
31. BURIAL, CREMATION, REMOVAL (Specify) Burial		32. DATE Oct. 27, 1982		33. CEMETERY OR CREMATORY - NAME Meridian Cemetery		34. LOCATION Meridian Idaho	
35. MORTICIAN (Signature) [Signature]		36. LICENSE NO. N-491		37. NAME OF FACILITY Chapel of the Chimes		38. ADDRESS OF FACILITY 105 E. Carlton, Meridian	
39. I hereby certify that I attended the deceased from _____ to _____ I last saw the deceased alive on _____ To the best of my knowledge, death occurred at the time, date and place and due to the cause(s) stated: (Signature and Title) _____ DATE SIGNED (Mo., Day, Yr.) _____ HOUR OF DEATH _____		40. NAME AND ADDRESS OF CERTIFIER (PHYSICIAN OR CORONER) (Type or Print) Michael Johnson, Ada County Coroner, 7200 Barrister Drive, Boise, Idaho 83701		41. (Coroner's Signature) [Signature] DATE SIGNED (Mo., Day, Yr.) 10-27-82		42. ON the basis of examination and/or investigation, in my opinion death occurred at the time, date and place and due to the cause(s) stated: PRONOUNCED DEAD (Mo., Day, Yr.) October 24, 1982	
43. REGISTRAR (Signature) Georgia Chapin		44. DATE RECEIVED BY REGISTRAR (Mo., Day, Yr.) November 1, 1982		45. IMMEDIATE CAUSE (Enter only one cause per line for (a), (b), and (c)) (a) Probable coronary infarction DUE TO, OR AS A CONSEQUENCE OF: (b) _____ DUE TO, OR AS A CONSEQUENCE OF: (c) _____		46. INTERVAL BETWEEN ONSET AND DEATH immediate	
47. OTHER SIGNIFICANT CONDITIONS - Conditions contributing to death but not related to cause given in PART I (a) ---		48. AUTOPSY (Yes or No) No		49. ACC. SUICIDE, HOM., UNDET., OR PENDING INVEST. (Specify) ---		50. DATE OF INJURY (Mo., Day, Yr.) ---	
51. INJURY AT WORK (Yes or No) ---		52. PLACE OF INJURY - At home, farm, street, factory, office building, etc. (Specify) ---		53. HOUR OF INJURY ---		54. DESCRIBE HOW INJURY OCCURRED ---	
55. LOCATION ---		56. STREET OR ROUTE ---		57. CITY OR TOWN ---		58. STATE ---	

DECEDENT

PARENTS

DISPOSITION

CERTIFIER

IF OTHER THAN PHYSICIAN, STATE CAUSE, SIGNER, COMPLETE WITHIN THE CERTIFICATE

CONDITIONS IF ANY OTHER THAN CAUSES, SIGNER, COMPLETE WITHIN THE CERTIFICATE

CAUSE OF DEATH

State of Idaho.)
County of Ada)

THIS IS TO CERTIFY That this is a certified copy of a certificate filed with the Department of Health and Welfare under Title 39, Idaho Code.

NOV -3 1982
Date Issued

[Signature]
State Registrar of Vital Statistics

Cascade Ranger District
Cascade, Idaho 83611

2720

February 7, 1983

Mr. Ronald Arnold
4435 Cedarwood Drive
Meridian, ID 83642

Dear Mr. Arnold:

I have not been able to contact you by phone so I thought I had better write and let you know why the permit only had your name on it.

In the past the policy concerning having more than one person on a permit has been rather vague.

New direction states, "A special use permit naming more than one person or legal entity will not be issued except where requested by a husband and wife."

Perhaps you can solve the problem with some type of legal document which shows that more than one person has an interest in the cabin.

You can line out the storage shed on the permit before you return it to the Forest Supervisor,

If you still have questions about the permit, give me a call.

Sincerely,



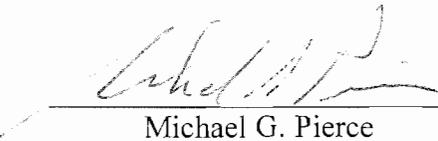
CHARLES G. JONES
District Ranger

RLSummingo/cb

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 2nd day of November, 2011, caused two (2) copies of the foregoing document to be served by U.S. Mail, first class postage prepaid, upon::

Christ T. Troupis
TROUPIS LAW OFFICE, PA
1299 E. Iron Eagle, Ste. 130
P. O. Box 2408
Eagle, Idaho 83616



Michael G. Pierce

