

STATEMENT OF THE ISSUES

I. WHETHER THE TRIAL COURT ERRED IN DETERMINING THE SCULPTURES WERE AGREEABLY DISPLAYED “ELSEWHERE” PURSUANT TO PARAGRAPH 3 OF THE AGREEMENT.

The trial court held that “elsewhere” was “any site” and because the sculptures were agreeably displayed at the Dunbar site, they were agreeably displayed elsewhere.

- *Culhane v. Western National Mut. Ins. Co.*, 2005 SD 97, 704 N.W.2d 287
- *South Dakota State Cement Plant Com’n v. Wausau Underwriters Ins. Co.*, 2000 SD 116, 616 N.W.2d 397
- *Nygaard v. Sioux Valley Hospitals & Health Systems*, 2007 SD 34, 731 N.W.2d 184

II. WHETHER DETMERS AGREEABLY DISPLAYED HER SCULPTURES “ELSEWHERE” IN THE ABSENCE OF A PROMISE OR A GUARANTEE FROM COSTNER THAT THE RESORT WOULD BE BUILT BY 2010.

The trial court imposed a “reasonable reliance” standard in this contract action and held that Detmers could not have “reasonably relied” on the resort being built in the absence of a promise or guarantee from Costner. As a result, the Court held Detmers agreeably displayed her sculptures at a stand-alone entity.

- *Bertelsen v. Allstate Ins. Co.*, 2011 SD 13, 796 N.W.2d 685
- *Ducheneaux v. Miller*, 488 N.W.2d 902 (S.D. 1992)
- *Nygaard v. Sioux Valley Hospitals & Health Systems*, 2007 SD 34, 731 N.W.2d 184
- *Fisher v. Kahler*, 2002 SD 30, 641 N.W.2d 122

III. WHETHER A LITERAL CONSTRUCTION OF THE TERM “ELSEWHERE” AS SET FORTH IN THE WRITTEN AGREEMENT WOULD PRODUCE AN ABSURD RESULT.

The trial court held that its decision was necessary to avoid an absurd result.

- *Nelson v. Schellpfeffer*, 2003 SD 7, 656 N.W.2d 740
- *Union Pacific RR v. Certain Underwriters At Lloyd’s*, 2009 SD 70, 771 N.W.2d 611
- *Sejnoha v. City of Yankton*, 2001 SD 22, 622 N.W.2d 735