

WEDNESDAY, JANUARY 13, 2010
10:00 A.M.

NO. 2

#25300

MICHAEL JOHNSON d/b/a
MICHAEL JOHNSON CONSTRUCTION,
Plaintiff and Appellee,

vs.

ROBERT LARSON and JOEL PENNY,
Defendants and Appellants.

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(FOR APPELLANTS)

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(FOR APPELLEE)

The Honorable Vincent A. Foley
Third Judicial Circuit
Lake County

(CIV 07-3)

LEGAL ISSUE

WHETHER JUDGE FOLEY'S DECISION REGARDING PLAINTIFF'S CLAIM OF UNJUST ENRICHMENT WAS AN APPROPRIATE EXERCISE OF EQUITABLE AUTHORITY IN LIGHT OF THE FACTS OF THIS CASE AND APPLICABLE EQUITABLE PRINCIPLES?

The relevant cases are Thompson v. Mehlafl, 698 N.W. 2d 512, 2005 SD 69; Weins v. Sporleder, 546 N.W. 2d 16, 1997 SD 111; C&W Enterprises, Inc. v. City of Sioux Falls, 635 N.W. 2d 752, 2001 SD 132; Aberle v. City of Aberdeen, 718 N.W. 2d 615, 2006 SD 60; Burch v. Bricker, 724 N.W. 2d 604, 2006 SD 101; and FB&I Bldg. Products, Inc. v. Superior Truss & Components, A Div. of Banks Lumber, Inc., 727 N.W. 2d 474, 478 (2007 SD 13); Jandrain v. Lovald, 2006, 351 B.R. 679; and Schick v. Rodenburg, N.W. 2d 464 (SD 1986).

The relevant Constitutional provision is Article VI, Section 6.

There relevant statutory provisions are SDCL 15-6-38 (a), 15-50 (b) (1) (C), 15-8-2, 15-8-11, and 15-8-15.2.