

IN THE DISTRICT COURT OF HOLT COUNTY, NEBRASKA

LAWRENCE PRIBIL,
Plaintiff,

vs.

**BARTON KOINZAN and SANDRA
KOINZAN, husband and wife; TERRY
HELD; and GENEVIEVE SHAW,**
Defendants.

**BARTON KOINZAN and SANDRA
KOINZAN, husband and wife,**
Third-Party Plaintiffs,

vs.

**TOWNSHIP OF GRATTEN, COUNTY OF
HOLT, NEBRASKA,**
Third-Party Defendant.

Case No. 20407

**ORDER DENYING
SUMMARY JUDGMENT**

DATE OF HEARING: January 6, 2000.

DATE OF DECISION: February 3, 2000.

APPEARANCES:

For plaintiff: no appearance.

For defendants:

Koinzan: Thomas H. DeLay without defendants Koinzan.

Shaw: James D. Gotschall with defendant Shaw.

Held: Kathleen K. Rockey without defendant Held.

Grattan: no appearance.

SUBJECT OF ORDER: (1) defendant Shaw’s motion for summary judgment against defendants Koinzan, and, (2) defendant Held’s motion for summary judgment against defendants Koinzan.

FINDINGS: The court finds and concludes that:

1. Summary judgment is proper only when the pleadings, depositions, admissions, stipulations, and affidavits in the record disclose that there is no genuine issue as to any material fact or as to the ultimate

inferences that may be drawn from those facts and that the moving party is entitled to judgment as a matter of law. *Derr v. Columbus Convention Center, Inc.*, 258 Neb. 537, ___ N.W.2d ___ (2000). The party moving for summary judgment has the burden to show that no genuine issue of material fact exists and must produce sufficient evidence to demonstrate that the moving party is entitled to judgment as a matter of law. *Id.* The court views the evidence in a light most favorable to the nonmoving party and gives such party the benefit of all reasonable inferences deducible from the evidence. *Id.*

2. The court is not persuaded that either defendant Shaw or defendant Held has met her or his burden to show that there is no genuine issue of material fact.

3. The respective motions should be denied.

ORDER: IT IS THEREFORE ORDERED that:

1. The defendant Shaw’s motion for summary judgment against the defendants Koinzan is denied.

2. The defendant Held’s motion for summary judgment against the defendants Koinzan is denied.

If checked, the Court Clerk shall:

Mail a copy of this order to all counsel of record and to any pro se parties.

Done on _____, 20____ by _____.

Enter judgment on the judgment record.

Done on _____, 20____ by _____.

Mail postcard/notice required by § 25-1301.01 within 3 days.

Done on _____, 20____ by _____.

Note the decision on the trial docket as: 2/3/00 Signed “Order Denying Summary Judgment” entered.

Done on _____, 20____ by _____.

Mailed to:

BY THE COURT:

William B. Cassel
District Judge