

STATEMENT OF THE LEGAL ISSUES

1. *Whether the Circuit Court erred by failing to find the existence of a confidential and fiduciary relationship between Fox and Mary Lou which then would shift the burden to Fox to prove that he took no unfair advantage of his dominant position in obtaining title to the 960 acres in his sole name?*
 - a. S.D.C.L. § 21-1-1;
 - b. S.D.C.L. § 25-2-1;
 - c. Samuelson v. Samuelson, 23 N.W.2d 806 (S.D. 1946);
 - d. Barker v. Barker, 75 N.D. 253; 27 N.W.2d 576;
 - e. Estate of Duebendorfer, 2006 S.D. 79; 721 N.W.2d 438;
 - f. Davies v. Toms, 63 N.W.2d 406 (S.D. 1954)

2. *Whether the Circuit Court erred by failing to find that Fox obtained title to the 960 acres of real property in his sole name by oppression, deception, undue influence or fraud of Mary Lou?*
 - o S.D.C.L. § 20-10-1, 2;
 - o S.D.C.L. § 53-4-7;
 - o Jennings v. Jennings, 309 N.W.2d 809 (S.D. 1981);
 - o Wright v. Lee, 2 S.D. 596; 51 N.W. 706;
 - o Parmely v. Hildebrand, 1999 S.D. 157; 603 N.W.2d 713

3. *Whether the Circuit Court erred by failing to find that Fox was unjustly enriched in obtaining sole ownership of the 960 acres of real property?*
 - o S.D.C.L. § 29A-1-103;
 - o S.D.C.L. § 29A-2-202;
 - o S.D.C.L. § 53-3-5;
 - o S.D.C.L. § 55-1-6;
 - o Knock v. Knock, 120 N.W.2d 572 (S.D. 1963);
 - o Jaeger v. Scheser, 270 N.W. 531 (S.D. 1936);
 - o In re Farmers State Bank of Amhurst, 289 N.W. 75 (S.D. 1939);
 - o Noll v. Brendee, 318 N.W.2d 319 (S.D. 1982)