

**Filed 11/26/04 by Clerk of Supreme Court  
IN THE SUPREME COURT  
STATE OF NORTH DAKOTA**

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2004 ND 219

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Richard A. Engwicht III,

Plaintiff and Appellant

v.

Alan J. Lako dba Lako Drilling,

Defendant and Appellee

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No. 20040079

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Appeal from the District Court of Cass County, East Central Judicial District,  
the Honorable Cynthia Rothe-Seeger, Judge.

AFFIRMED.

Per Curiam.

Jay A. Schmitz, 511 2nd Avenue S.E., Jamestown, ND 58401, for plaintiff and  
appellant.

Monte L. Rogneby (argued) and Christel M. Bender (on brief), Vogel Law  
Firm, P.O. Box 2097, Bismarck, ND 58502-2097, for defendant and appellee.

**Engwicht v. Lako**

**No. 20040079**

Per Curiam.

[¶1] Richard Engwicht appealed from a judgment in which the district court judge, sitting as the trier of fact, interpreted an oral contract for well-drilling services in favor of Alan Lako. Engwicht maintains the district court erred in its interpretation of the parties' oral contract and believes the district court's findings of fact are clearly erroneous. Engwicht argues the parties contracted for a tangible product, a completed artesian well, rather than simply contracting for drilling services. Engwicht points to the parties' mutual testimony and conduct in performing their obligations to support his contention. After reviewing the entire record, we conclude the district court's findings of fact are not clearly erroneous and we affirm the judgment under N.D.R.App.P. 35.1(a)(2).

[¶2] Gerald W. VandeWalle, C.J.  
Dale V. Sandstrom  
William A. Neumann  
Mary Muehlen Maring  
Donald L. Jorgensen, D.J.

[¶3] The Honorable Donald L. Jorgensen, D. J., sitting in place of Kapsner, J., disqualified.