

STANDARD OIL CO. V. BROWN, 1935-NMSC-095, 40 N.M. 18, 52 P.2d 1089 (S. Ct. 1935)

**STANDARD OIL CO. OF CALIFORNIA
vs.
BROWN**

No. 4094

SUPREME COURT OF NEW MEXICO

1935-NMSC-095, 40 N.M. 18, 52 P.2d 1089

December 16, 1935

Appeal from District Court, Union County; Taylor, Judge.

Action by the Standard Oil Company of California against D. R. Brown. From an adverse judgment, the plaintiff appeals.

COUNSEL

W. A. Keleher, of Albuquerque, and O. T. Toombs, of Clayton, for appellant.

O. P. Easterwood, of Clayton, for appellee.

JUDGES

Zinn, Justice. Sadler, C. J., and Hudspeth, Bickley, and Brice, JJ., concur.

AUTHOR: ZINN

OPINION

{*18} {1} Appellant brought suit against appellee for the sum of \$ 227.70, for goods, wares, and merchandise sold by appellant to appellee. Appellee answered denying the indebtedness and alleged that appellant owed appellee \$ 20 for hauling sand and \$ 500 damages for failing to furnish an air compressor, failure to grade up certain lots, failure to change certain pumps to a new location, and for digging certain tank holes and not changing pumps which appellant agreed to do, and thereby causing appellee damages resulting from loss of business.

{2} The cause was tried to the court, who awarded appellant judgment in the sum of \$ 215 as against appellee and offset this sum to appellee by awarding appellee judgment as against appellant in the sum of \$ 289.30, leaving a balance due appellee from

appellant in the sum of \$ 74.30, for which sum judgment was rendered in favor of appellee. {19} From this judgment the appeal is prosecuted to this court.

{3} Only one point is set up by appellant as error. Appellant contends that there is no evidence of a substantial character to support the judgment as to loss of profits to the appellee's business and that the damages awarded for such loss are speculative and were not proven.

{4} No specific findings of fact or conclusions of law were made by the court, and none were requested by either of the parties. This state of the record does not invoke a review of the evidence. *Harris & Maldonado v. Sperry*, 35 N.M. 52, 290 P. 1022, and cases therein cited. We will not review the evidence to see whether it supports the general findings in the judgment where there has been no requested findings of fact.

{5} For the reasons given the judgment is affirmed. It is so ordered.