

1984

Zions First National Bank, a Utah corporation v. Clark Clinic Corporationc, a Utah corporation : Brief of Respondent

Utah Supreme Court

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James G. Clark; Ray Phillips Ivie; Ivie & Young; Attorneys for Defendant/Appellant.

M. Dayle Jeffs; Jeffs and Jeffs; Attorney for Plaintiff/Respondent.

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1984 20105
IN THE SUPREME COURT OF THE
STATE OF UTAH

ZIONS FIRST NATIONAL BANK,
a Utah corporation,

Plaintiff/Respondent,

vs.

Case No. 20105

CLARK CLINIC CORPORATION,
a Utah corporation,

Defendant/Appellant.

_____ /

SUPPLEMENTATION OF RESPONDENT'S BRIEF

Appeal from the Judgment of the Fourth
District Court for Utah County,
Hon. David Sam, Judge

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Appellant

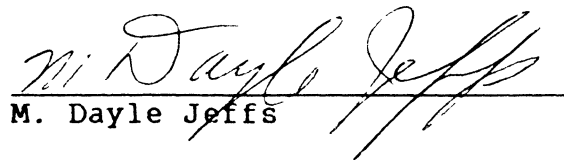
FILED
OCT 13 1987

Clerk, Supreme Court, Utah

Pursuant to the Order of this Court dated October 7, 1987, Respondent submits the following to supplement its brief as an appendix to that brief:

1. Affidavit of Judge David Sam.
2. Affidavit of M. Dayle Jeffs.
3. Minute Entry dated August 25, 1983, signed by Judge David Sam.

Respectfully submitted this 13th day of October, 1987.


M. Dayle Jeffs

IN THE SUPREME COURT OF THE
STATE OF UTAH

ZIONS FIRST NATIONAL BANK,
a Utah corporation,

Plaintiff/Respondent,

vs.

Case No. 20105

CLARK CLINIC CORPORATION,
a Utah corporation,

Defendant/Appellant.

AFFIDAVIT OF JUDGE DAVID SAM

Appeal from the Judgment of the Fourth
District Court for Utah County,
Hon. David Sam, Judge

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Attorneys for Defendant/
Appellant

STATE OF UTAH)
 :ss
COUNTY OF SALT LAKE)

The Honorable David Sam, United States District Judge, upon his oath, deposes and says as follows:

1. I am a District Judge of the United States District Court for Utah.

2. I was formerly a District Judge of the Fourth Judicial District of the State of Utah.

3. While a District Judge of the State of Utah, I ruled on the matter of Zions First National Bank v. Clark Clinic Corporation.

4. At no time during the handling of that case did I ever have any ex parte conferences with plaintiff's counsel, wherein issues or the merits of any of the issues of the case were discussed with counsel.

5. All conferences wherein any of the issues, procedures to be followed, or merits of the case were discussed were conducted either in telephone conferences or in person, and in either event, both counsel were present by telephone or in person at all such conferences.

6. Even had counsel so requested, I would not have allowed the discussion of any of the merits, issues or procedures of the case with either counsel ex parte.

Dated this 13th day of October, 1987.

David Sam
David Sam

Subscribed and sworn to before me this 13th day of
October, 1987.

Susana K. Kato
Notary Public
Residing at: Salt Lake City

My Commission Expires:

May 19, 1991

IN THE SUPREME COURT OF THE
STATE OF UTAH

ZIONS FIRST NATIONAL BANK,
a Utah corporation,

Plaintiff/Respondent,

vs.

Case No. 20105

CLARK CLINIC CORPORATION,
a Utah corporation,

Defendant/Appellant.

AFFIDAVIT OF M. DAYLE JEFFS

Appeal from the Judgment of the Fourth
District Court for Utah County,
Hon. David Sam, Judge

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Attorneys for Defendant/
Appellant

STATE OF UTAH)
 :ss
COUNTY OF UTAH)

M. Dayle Jeffs, upon his oath, deposes and says as follows:

1. I am an attorney licensed to practice law in the State of Utah.

2. I have appeared throughout the proceedings in this matter as counsel for Zions First National Bank.

3. The representations in the footnote on page 4 of the Appellant's Reply Brief that ex parte conferences were held with the judge in the case without informing counsel for defendant are false, inaccurate, and irresponsible.

4. At no time during the course of the proceedings did I ever have any ex parte conferences with the judge in which any issues, merits, or procedures to be followed in the case were discussed.

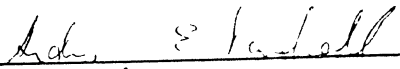
5. During all conferences with the judge in which any issues, merits, or procedures to be followed in the case were discussed, counsel for defendant was present, either in person or by telephone conference call.

Dated this 13th day of October, 1987.


M. Dayle Jeffs

Subscribed and sworn to before me this 13th day of

October, 1987.



Notary Public
Residing at: Provo, Utah

My Commission Expires:

June 26, 1988

In the Fourth Judicial District Court

of the State of Utah
In and For Utah County

ZIONS FIRST NATIONAL BANK

Plaintiff

vs.

CLARK CLINIC CORPORATION

Defendant

MINUTE ENTRY

CASE NUMBER 52,184

DATED August 25, 1983

David Sam JUDGE

This case is before the court on Defendant's Motion to Set Aside Order in Limine of August 1, 1983 and is considered pursuant to Rule 2.8, Rules of Practice of the District Courts.

R U L I N G

Defendant's Motion to Set Aside Order in Limine of August 1, 1983, is denied. The Court's Ruling dated August 1, 1983 accurately reflects the decision of the court.

Dated this 25th day of August, 1983.



DISTRICT JUDGE

cc: M. Dayle Jeffs
James A. McIntyre