

1978

Bank of Salt Lake, A Utah Corporation, And  
Norton Parker, An Individual v. Globe Leasing  
Corporation, A Utah Corporation; Al Weigelt And  
Gloria Morrison, Individuals : Supplement To Brief  
of Appellant

Utah Supreme Court

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IN THE SUPREME COURT  
OF THE  
STATE OF UTAH

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BANK OF SALT LAKE, a Utah  
corporation, and NORTON  
PARKER, an individual,

Defendants-Appellant,

vs.

Case No.

GLOBE LEASING CORPORATION, a  
Utah corporation; AL WEIGELT  
and GLORIA MORRISON, individuals,

15337

Plaintiffs-Respondent.

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SUPPLEMENT TO BRIEF OF APPELLANT

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An appeal from a judgment of the Third  
Judicial District Court of Salt Lake  
County, State of Utah, the Honorable  
Peter F. Leary, Judge.

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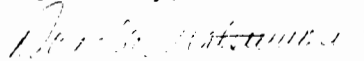
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Clerk, Supreme Court, Utah

Pursuant to the provisions of Rule 75(p)(3) of the Utah Rules of Civil Procedure Appellant hereby files the following pages of additional authorities to supplement its original brief to the Court.

DATED this 9th day of June, 1978.

Respectfully, submitted.



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On page iii insert the following:

Insert after Carolene Sales Co. v. Canyon Milk Products  
Co. the following:

Cox v. Thompson,  
123 Utah 81, 254 P.2d 1047 (1953) 25A

Insert after Jenkins v. Morgan the following:

King v. City of Seattle,  
84 Wash.2d 239, 525 P.2d 228 (1974) 25A

Insert after Monter v. Kratzer the following:

Norris v. Pig 'N' Whistle Sandwich Shop,  
70 Ga.App. 369, 53 S.E.2d 718 (1949) 31A

Insert after Salt Lake City v. United Park City  
Mines Co. the following:

Scymanski v. Dufault,  
80 Wash.2d 77, 491 P.2d 1050 (1971) 17A

BANK OF SALT LAKE, Defendants-Appellant,  
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Plaintiffs-Respondent.

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On page iv insert the following:

Insert after 22 Am. Jur. 2d Damages the following:

45 Am. Jur. 2d Interference (1969) 17A, 20A

Insert after 25 Corp. Jur. Sec. Damages the

following:

86 Corp. Jur. Sec. Torts (1966) 17A

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Regarding the question of "privilege:"

Insert the following after citation to "W. L. Prosser, Handbook of the Law of Torts" at p. 17 of Bank's brief:

"As in the case of interference with contract, any manner of intentional invasion of the plaintiff's interest may be sufficient if the purpose is not a privileged one." (emphasis added)

Id. at 952. See also, 86 Corp.Jur.Sec. Torts § 43 at 957 (1966) and cases cited therein discussing interference with prospective business relations:

"Even though no wrongful or unlawful means are employed to accomplish the result, liability for malicious interference may result from the intentional doing of acts without justification or excuse." (emphasis added)

See also, 45 Am. Jur. 2d Interference § 23 for a discussion of absolute privilege as applied in an undifferentiated treatment of both interference with existing and prospective contracts. See Scymanski v. Dufault, 80 Wash.2d 77, 491 P.2d 1050, 1054 (1971) citing 1 F. Harper and F. James, The Law of Torts, § 6.11 (1956):

"Although the law does not extend its protection as far in the case of precontractual interferences as it does when existing contracts have been interfered with, it

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draws a line beyond which no member of the community may go in interrupting contractual negotiations or otherwise intentionally intermeddling with the business affairs of others. The interest protected is different here than that considered in the preceding sections. Instead of the interest in the security of contracts already made, it is the interest in reasonable expectations of economic advantage. This, of course, involves society's interest in affording to the individual a fair opportunity to conduct his legitimate business affairs without interruption from others except in so far as such interferences are sanctioned by the "rules of the game" which society has adopted." (emphasis added)

BANK OF SALT LAKE, Defendants-Appellant,  
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Regarding the exercise of contractual rights as absolute  
privilege.

Add the following after the citation to Flinco at the top  
of page 20 of brief of Bank of Salt Lake:

See 45 Am.Jur.2d Interference § 23 at 298-300 (1969) and  
cases cited therein:

"Enforcing or complying with one's own valid  
contract does not constitute unjustifiable inter-  
ference with another's contract, nor does the exer-  
cise of a legal right to terminate an agreement by a  
contracting party."

Id. at 299.



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Regarding whether Bank's actions were the proximate cause  
of Globe's alleged damages for loss of profits.

Add the following as footnote 2A after the word  
"otherwise," in the fourth line from the bottom of page 25:

2A/ For the proposition that the finding of "proximate cause" is a legal question resting on certain broad policy considerations, see King v. City of Seattle, 84 Wash.2d 239, 525 P.2d 228, 234 (1974). For Utah definition of "proximate cause," see Cox v. Thompson, 123 Utah 81, 254 P.2d 1047, 1051 (1953): "Generally speaking, the proximate cause of an injury is the primary moving cause without which it would not have been inflicted, but which in the natural and probable sequence of events, and without the intervention of any new or independent cause, produces an injury." (emphasis added)

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Regarding conditions to allowance of lost profit damage.

Add the following as footnote 3A to the citation of  
Howarth at the bottom of page 31.

3A/ See Norris v. Pig 'N' Whistle Sandwich Shop,  
70 Ga.App. 369, 53 S.E.2d 718, 721 (1949): "The  
profits of a commercial business are dependent upon so many  
hazards and chances that unless the anticipated profits  
are capable of ascertainment, and the loss of them  
traceable directly to defendants' wrongful act, they are too  
speculative to afford a basis for the computation of dam-  
ages." (emphasis added).