

1986

Mel Trimble Real Estate v. Monte Vista Ranch, Inc.,
Wallave Ohran, Ray E. Nelson, Howard D.
Sherwood, Jouce Rice, Nelson Williams :
Unknown

Utah Supreme Court

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UTAH COURT OF APPEALS
BRIEF

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Clerk, Supreme Court, Utah

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IN THE SUPREME COURT

STATE OF UTAH

MEL TRIMBLE REAL ESTATE,

Appellant,

vs.

MONTE VISTA RANCH, INC. and
WALLACE OHRAN, RAY E. NELSON
HOWARD D. SHERWOOD, JOYCE
RICE, AND NELDON WILLIAMS

Respondents.

MEMORANDUM OF NEWLY
UNCOVERED AUTHORITY
AND REQUEST FOR
JUDICIAL NOTES

Case No. 20769

860135-CA

Plaintiff cited Court documents from prior litigation between the parties on pages 5 and 8 of plaintiff's original brief. These exhibits were attached as Exhibits C and D to the brief. The prior litigation that these Court documents were from is the prior litigation that defendants base their collateral estoppel and res judicata claims on.

Defendants objected to citation to these Court documents on the grounds that these particular Court documents were not presented to the trial court in this case. (Responding Brief, pp. 14-15.) In the Reply Brief, plaintiff acknowledged the general rule that evidence not presented at trial is not considered on appeal. (Reply Brief, pp. 7-8.)

Plaintiff has since learned that there is an exception to the general rule when the court can take judicial notice. Rule 201(f) of the Utah Rules of Evidence says that, Judicial notice may be taken at any stage of the proceeding. Rule 201(b) says Judicial notice may be taken of facts "capable of accurate and ready determination by resort to sources where accuracy cannot reasonably be questioned."

Plaintiff requests that the Court take judicial notice of Exhibits C and D to the original brief.

DATED this 22nd day of April, 1986.

ROBERT J. DEBRY & ASSOCIATES
Attorneys for Appellant

By: David M. Jorgensen
DAVID M. JORGENSEN

CERTIFICATE OF MAILING

I hereby certify that a true and accurate copy of the foregoing MEMORANDUM OF NEWLY UNCOVERED AUTHORITY AND REQUEST FOR JUDICIAL NOTICE, was mailed this 22 day of April, 1986, to the following:

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