

1978

Paul Christensen v. Weldon S. Abbott : Reply Brief of Appellant

Utah Supreme Court

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IN THE SUPREME COURT OF THE STATE OF UTAH

PAUL CHRISTENSEN,)	
)	
Plaintiff - Appellant,)	
)	
vs.)	CASE NO. 15574
)	
WELDON S. ABBOTT,)	
)	
Defendant - Respondent.)	
)	

REPLY BRIEF OF APPELLANT

APPEAL FROM JUDGMENT
of the
FOURTH JUDICIAL DISTRICT COURT
DUCHESNE COUNTY, STATE OF UTAH

The Honorable Allen B. Sorensen, Judge.

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)
Plaintiff - Appellant,)
)
vs.) CASE NO. 15574
)
ALFRED S. JOHNSON,)
)
Defendant - Respondent.)
)

APPLY BRIEF OF APPELLANT

APPEAL FROM DISTRICT COURT
of the
CIRCUIT JUDICIAL DISTRICT COURT
BOHMER COUNTY, STATE OF UTAH

The Honorable Allen B. Sorenson, Judge.

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THE SUPREME COURT OF THE STATE OF UTAH

PAUL CHRISTENSEN,

)

Plaintiff-Appellant,)

-vs-

)

Civil No. 15574

WELDON S. ABBOTT,

)

Defendant-Respondent.)

APPELLANT'S REPLY BRIEF

The appellant submits the following reply to points raised in respondents brief. Reply references are to respondent's brief, unless otherwise designated. References designated R are to the full Record.

NATURE OF THE CASE

1. Pleadings: Respondent alleges that he pled accord and satisfaction in his answer. Rule 8(c) U.R.C.P, requires all affirmative defenses to be specifically pled in the answer, and respondent's answer failed to so do. (Page 1, 12, lines 1-3.)

2. Joint Venture: Appellant does not agree with respondent's version as to what constituted the joint venture of the parties. The undisputed evidence sustains appellant's contention that appellant sold respondent 200 head of "Black" angus cattle and received as payment, respondent's demand note for \$111,000.00. Thereafter, appellant and respondent joint ventured the purchase of the Haslem ranch and 250 head

to what the business relationship or arrangement between the parties really was. Appellant claims that the arrangement was as follows:

1. Appellant would supervise all herding, feeding and employees;

2. Appellant would acquire all feed, transportation, etc., as necessary for the operation;

3. All costs of the joint operation would be divided evenly between the parties;

4. The annual principal and interest payments on the mortgage, taxes, lease payments, etc., would be evenly shared;

5. Appellant would receive a wage of \$1,000 per month;

6. The calf crop on the Haslem cattle would be evenly divided;

7. Respondent would pay appellant for the actual cost of feeding, etc., the 200 Angus cattle;

8. Respondent would pay appellant on the \$111,000 note so that appellant could pay Haslem his share of the annual installments. (See R., Pg. 168, lines 25-28; Pg. 179, lines 11-27; Pg. 221, lines 16-21; and, Pg. 230, lines 18-24).

Respondent's version was substantially different than that of appellant. Respondent's version was as follows:

1. Appellant was to furnish feed, care, etc., for the 200 Angus cattle and the Haslem cattle;

2. Appellant was to pay all expenses in connection with the Haslem ranch and on all cattle of either respondent or of respondent and appellant;

3. Respondent was to furnish nothing more than the cattle;

4. Appellant was not to receive a wage;

5. Appellant was only to receive one-half of the calf crop from all cattle;