

1986

Jennifer Chapman, by and through her guardian,
Teresa Chapman, Robert Chapman and Teresa
Chpman, individually v. Primary Children's
Hospital, a hospital organized to do business in the
State of Utah, et al. : Unknown

Utah Supreme Court

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Kirton, McConkie, and Poelman.

Robert N. Williams, P. Richard Meyer, Jeffrey A. Tennyson, Daniel M. Hesse; Meyer and Williams.

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November 18, 1988

Mr. Geoffrey Butler
Clerk of Court
Supreme Court of Utah
The Capitol
Salt Lake City, Utah 84114

RE: Chapman v. Primary Children's et. al, No. 860230

Dear Mr. Butler:

Pursuant to Rule 24(j) of the Rules of the Utah Supreme Court, please find enclosed nine copies of this letter. Copies have been sent to all counsel of record under separate cover. I am writing this letter to apprise the Court of pertinent authority in the above captioned matter which has come to the Plaintiffs' attention subsequent to the filing of their brief, to wit:

Blum v. Stone, 752 P.2d 898 (Utah 1988)

Hardy v. VerMeulen, 512 N.E.2d 626 (Ohio 1987)

Truesdell v. Halliburton Co., Inc., 754 P.2d 236 (Alaska 1988)

The Blum opinion stands for the proposition that all statutes of limitations must be tolled during minority unless the legislature enacts a specific exemption, and that due to the legislature's interpretation, the effect of Utah Code Ann. § 78-14-4 is nullified when applied to minors. See Appellant's Brief at 21. Blum also reviewed Scott v. School Board of Granite School District, 568 P.2d 746 (Utah 1977), and found that the tolling of statutes of limitation during minority served to protect the minor's legitimate interests and avoid denial of due process and equal protection. See Appellant's Brief at 19-29.

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In Hardy, a medical malpractice statute of limitations was found to be unconstitutional in that it violated the "open courts" provision of the state constitution. See Appellant's Brief at 30.

The Court in Truesdell recognized the legislative policies favoring protection of the interests of minors. See Appellant's Brief at 34.

Thank you for your consideration of this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "D. Hesse", with a long horizontal flourish extending to the right.

Daniel M. Hesse