

1978

# Donald J. Richardson et al v. Arizona Fuels Corp. et al : Brief of Appellants in Support of Petition for Rehearing

Utah Supreme Court

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Paul N. Cotro-Manes; Parker M. Nielson; Attorneys for Plaintiffs-Respondents;

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IN THE SUPREME COURT OF THE STATE OF UTAH

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DONALD J. RICHARDSON, GROVE L. )  
COOK and WAYNE WEAVER, indivi- )  
dually and for and on behalf of )  
all similarly situated share- )  
holders of Major Oil Corporation, )

)  
Plaintiffs and )  
Respondents, )

vs. )

ARIZONA FUELS CORPORATION, a )  
Utah corporation, EUGENE DALTON, )  
an individual, DEANNA J. DALTON, )  
an individual, and MAJOR OIL )  
CORPORATION, a Utah corporation, )

)  
Defendants and )  
Appellants. )

No. 15691

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BRIEF OF APPELLANTS IN SUPPORT OF  
PETITION FOR REHEARING

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IN THE SUPREME COURT OF THE STATE OF UTAH

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ARIZONA FUELS CORPORATION, a )  
Utah corporation, EUGENE DALTON, ) No. 15691  
an individual, DEANNE J. DALTON, )  
an individual, and MAJOR OIL )  
CORPORATION, a Utah corporation, )  
 )  
Defendants and )  
Appellants. )

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Defendant-Appellant Major Oil Corporation (herein "Major"), by and through its counsel of record, LeRoy S. Axland and David R. Olsen, Esq., of and for Sutter, Axland & Armstrong, petitions this Court for a rehearing of that portion of its decision entered in this action on May 1, 1980, which affirmed the appointment of a receiver for Major. This Motion is made on the following grounds and for the following reasons:


1. This is an interlocutory appeal from an Order of the District Court of Salt Lake County appointing a receiver for Major and certifying this case as a Class Action.
2. This Court reversed the District Court's


certification of the suit as a Class Action and remanded the matter to the District Court for further proceedings.

3. This Court affirmed the District Court's Order appointing a receiver for Major. The only allegations supporting an appointment of a receiver are contained in the Twelfth Cause of Action of the Amended Complaint. These allegations are made without foundation and consist of opinions and conclusions of law and fact. The only conceivable foundation for these statement is found in the preceding Causes of Action of the Amended Complaint. However, each and every allegation of operative fact contained therein is made on information and belief. Allegations made on information and belief are insufficient to form the basis for appointment of a receiver.

Major respectfully submits that there was an insufficient evidentiary basis to sustain the appointment of a receiver and a Rehearing should be granted.

DATED this 20<sup>th</sup> day of May, 1980.

  
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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing Petition for Rehearing was mailed, postage prepaid, to Paul N. Cotro-Manes, Esq., 430 Judge Building, Salt Lake City, Utah 84111, and Parker M. Nielson, Esq., 320 Kearns Building, Salt Lake City, Utah 84101, this 2<sup>nd</sup> day of May, 1980.

David R. Clark