

2008

Wilma L. Schwenke, Tania P. Schwenke, Cindy Lawrence, and Wayne Wong v. Intermountain Inc. dba Intermountain Isuzu v. Wilma L. Schwenke, Tania P. Schwenke, Cindy Lawrence, Wayne Wong, and Victor Lawrence : Unknown

Utah Court of Appeals

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Bryan Fishburn; Attorney for Appellee.

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August 27, 2010

Utah Court of Appeals  
450 South State Street  
P.O. Box 140230  
Salt Lake City, Utah 84114-0230

FILED  
UTAH APPELLATE COURT  
AUG 27 2010

Attn: Lisa Collins, Clerk

**Re: Supplemental Authorities**  
***Schwenke, et al. v. Intermountain, Inc. et al***  
***Court of Appeals Case No. 20080835***

Dear Ms. Collins:

We represent Appellants Victor and Cindy Lawrence (Appellants) in the above-referenced matter. Pursuant to Rule 24(j), UTAH R. APP. P., Appellants hereby supplement their oral argument before the Court, delivered on August 25, 2010, with the following legal authorities and citations to the record.

The question was posed by the Court to Appellants' Counsel during oral argument as to the standard of review in relation to awards of punitive damages. Pursuant to Utah law, the Court should apply a *de novo* standard of review on the punitive damage award in this matter.

As authority for this proposition, Appellants cite *Smith v. Fairfax Realty, Inc.*, 82 P.3d 1064 (Utah 2003). In the *Fairfax* case, the Utah Supreme Court held courts should "evaluate the excessiveness of the punitive damage award under the *Crookson* factors." *Id.* at 1072<sup>1</sup> The *Fairfax* Court continued, "this court has adopted a *de novo* standard for reviewing jury and trial court conclusions under the *Crookson* factors." *Id.* Thus, this Court should likewise perform a *de novo* review of the punitive damage award in this matter, applying the *Crookson* factors as detailed in Appellants' briefs.

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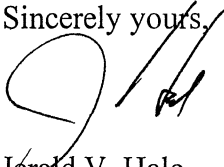
<sup>1</sup> *Crookson v. Fire Ins. Exchange*, 817 P.2d 789 (Utah 1991) was previously cited in Appellants' briefing papers.



August 27, 2010  
Utah Court of Appeals  
Attn: Lisa Collins  
Page 2

Thank you for your kind attention to this matter.

Sincerely yours,

A handwritten signature in black ink, appearing to be "J. Hale", written over the closing "Sincerely yours,".

Jerald V. Hale  
JER/jvh/ap

cc: P. Bryan Fishburn