

1988

Vera Morgan v. Dr. Wallace Jay Morgan : Memorandum of Supplemental Authority

Utah Court of Appeals

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FILED

MAR 28 1989

IN THE COURT OF APPEALS FOR THE
STATE OF UTAH

**D
410**

POCKET NO. 88-914

Priority No. 14b

MEMORANDUM OF SUPPLEMENTAL AUTHORITY

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DEPOSITED BY THE
STATE OF UTAH
AUG 16 1990

On March 8, 1989, this Court rendered a decision in the matter of *Johnson v. Johnson*, 103 Utah Adv.Rep. 22 (1989). In *Johnson*, the Court reversed the trial court's award of alimony because the trial court failed to set forth specific findings concerning the financial condition and the needs of the party to whom alimony was awarded. This Court remanded *Johnson* to the trial court for specific findings concerning:

1. The needs of the party to whom alimony was awarded and her ability to provide for herself, including an earning capacity baseline;

2. Separate findings concerning income which will flow to both parties from the respective properties that they were awarded; and

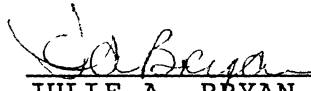
3. An alimony award based upon those findings. 103 Utah Adv.Rep. at 25.

The holding on *Johnson* is consistent with the argument made in Point IV of Appellant's Brief filed in the instant case. In this case, the trial court ordered the appellant to pay \$2,000.00 in alimony to the respondent. However, the trial court made no findings on respondent's need, her ability to support herself and/or appellant's ability to pay the alimony awarded. Moreover, the trial court awarded the respondent significant income producing property but failed to make any specific finding on the income that property would generate for respondent's support. Thus, consistent with this Court's holding in *Johnson*, the instant case should be remanded to the trial court for specific findings on respondent's

need for alimony, her ability to support herself, appellant's ability to pay alimony and the amount of income that will be generated for each party from the properties they were awarded.

DATED this 24th day of March, 1989.

COHNE, RAPPAPORT & SEGAL



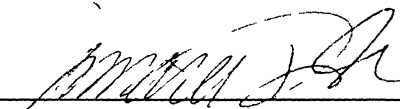
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CERTIFICATE OF MAILING

I hereby certify that on the 27th day of March, 1989, I mailed a true and correct copy of the foregoing, postage prepaid, to the following:

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(td/jab/morgan mem)