

2001

Mildred Rhoades v. James C. Wright aka James Clifford Wright Clifford Wright, and Essie Wright : Reply Brief

Utah Supreme Court

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BRIEF

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BRIGHAM YOUNG UNIVERSITY
Reuben Clark Law School
Case No. 14159

MILDRED RHOADES individually and as
Administratrix of the Estate of Claude
Rhoades, deceased,

Plaintiff-Appellant,

v.

JAMES C. WRIGHT, also known as JAMES
CLIFFORD WRIGHT, and CLIFFORD WRIGHT
and ESSIE WRIGHT, his wife,

Defendants-Respondents.

APPELLANT'S REPLY BRIEF

Appeal from the Seventh Judicial District Court
of San Juan County, Utah, Honorable Edward Sheya,
Judge

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IN THE SUPREME COURT OF THE STATE OF UTAH

MILDRED RHOADES individually and as)
Administratrix of the Estate of Claude)
Rhoades, deceased,)

Plaintiff-Appellant,)

v.)

JAMES C. WRIGHT, also known as JAMES)
CLIFFORD WRIGHT, and CLIFFORD WRIGHT)
and ESSIE WRIGHT, his wife,)

Defendants-Respondents.)

Case No. 14159

APPELLANT'S REPLY BRIEF

NATURE OF THE CASE

This is an action to recover for the wrongful death of Claude Rhoades.

DISPOSITION IN THE LOWER COURT

The lower court granted Defendants' motion to quash service of process, held that attachment is an improper method to confer jurisdiction in a wrongful death case where the tort sued upon arose in another state and pursuant to this holding granted Defendants' ex parte motion to vacate the writ of attachment.

RELIEF SOUGHT ON APPEAL

Plaintiff-Appellant seeks to have the decision of the lower court reversed, the writ of attachment reinstated and the case remanded for a trial on the merits.

STATEMENT OF FACTS

The following facts, in addition to those already contained in Plaintiff-Appellant's first brief on file herein and in addition to Defendants-Respondents' statement of the facts, appear pertinent to the matter before the Court.

Defendants have objected to Plaintiff's statement of the facts as reciting information not introduced into evidence; however, the facts Defendants find objectionable are taken from the statement of facts in the decision of the Tenth Circuit Court of Appeals where that court considered whether the federal district court had in personam jurisdiction based on the Long Arm Statute or in rem jurisdiction based on the unamended Rule 64C of the Utah Rules of Civil Procedure. A printed copy of that decision was filed in the San Juan District Court by Defendants themselves and is included in the Record on Appeal at page 43. While the action in federal court was not identical to the present action insofar as the question of jurisdiction is concerned, it was based on the same incident or occurrence.

Since this Court is now called upon to consider the validity and bases of in rem or quasi in rem jurisdiction, an understanding of the background and the facts alleged, some of which are admittedly disputed, is essential to determine whether error was committed by the court below when it vacated the writ of attachment and ruled that attachment based on the amended Rule 64C was not a proper means of

acquiring in rem jurisdiction.

No hearing has been held on the merits of the case and no evidence received by the court below; consequently, Plaintiff is limited in her statement of the facts to the record now before the Court.

In addition to the foregoing facts, Plaintiff-Appellant further supplements her statement with the following facts pertaining to due process.

Before any writ of attachment issued in this case, Defendants had already appeared specially on January 2, 1975 (R.6) and again on April 22, 1975 (R.9) and filed their motions to quash service of process. On May 1, 1975, before any writ of attachment had issued, Defendants had filed their notice of hearing (R.10) and memorandum of authorities (R.13-29) wherein, in apparent anticipation that a writ of attachment would be issued, they argued that attachment is an improper means of conferring in rem jurisdiction. (R.22-26)

The writ of attachment in this case was not issued until May 12, 1975, two days before the hearing which had been noticed up by Defendants wherein oral arguments and memoranda of authorities were submitted to the court on the issues, including the issue of in rem jurisdiction based on attachment. Although the writ of attachment was not included in the Record on Appeal when it was transmitted to this Court, the San Juan County Court docket reflects that it was issued on May 12, 1975, and Plaintiff is prepared to produce the

original writ issued by the clerk and dated May 12, 1975. The affidavit for attachment dated May 12, 1975, is found on pages 56 and 57 of the Record.

Thereafter the court granted Defendants' motion to quash, held that attachment is an improper method to confer jurisdiction and subsequently vacated Plaintiff's writ of attachment (R.64-65), hence this appeal.

ISSUES

1. The prior decision in the federal court is not res judicata as to jurisdiction.

2. Plaintiff acquired in rem or quasi in rem jurisdiction over the Defendants' property situated in San Juan County by virtue of her writ of attachment and it was reversible error for the court to find otherwise and to subsequently vacate Plaintiff's writ.

3. The question raised by Defendants as to the constitutionality of the Utah Attachment Rule is rendered moot by the fact that before Plaintiff's writ had issued, Defendants had entered a special appearance and had filed a notice of hearing and memorandum of authorities, contesting, among other things, in rem jurisdiction based on attachment.

4. Aside from the fact that the question is moot, the Utah Attachment Rule is constitutional.

ARGUMENT

By way of reply to Defendants' brief, Plaintiff submits the following argument in addition to that contained on pages

15 through 24 of her initial brief on appeal.

POINT I

THE PRIOR DECISION IN THE FEDERAL COURT IS NOT RES JUDICATA AS TO JURISDICTION.

Plaintiff agrees that the doctrine of res judicata applies to questions involving jurisdiction but submits that the same rules also apply, requiring that the precise issue be litigated and determined by prior decision before the doctrine may be invoked. The issue of in rem or quasi in rem jurisdiction based on the amended Rule 64C was not squarely presented to and determined by the federal court.

Defendants grossly misrepresent the nature of the present action when they state at page 3 in their brief that the "identical case" was originally brought in the Federal District Court for Utah and there dismissed for lack of personal and in rem jurisdiction. Granted, the action in federal court was based on the same incident or occurrence as the instant action; however, the whole point of Plaintiff's appeal in this case and the reason Plaintiff filed a new action in the District Court of San Juan County is that subsequent to the filing of the federal action and while the Defendants' appeal from the federal district court was pending before the circuit court, this Court amended its Rule 64C by eliminating the very language which, according to the circuit court decision, restricted Utah's Long Arm Statute and attachment rule to "personal injury" or "injury to the

person." In other words, the amended Rule 64C and its basis for in rem or quasi in rem jurisdiction was not considered or ruled upon by the circuit court.

Defendants cite the following authorities at pages 7 and 8 of their brief in support of the proposition that res judicata applies to all issues which could have been raised in a prior proceeding: Partmar Corp. v. Paramount Pictures Theatres Corp., 347 U.S. 89 (1954); 46 AM. JUR. 2d, Judgments, Sec. 417 (1969); Burns v. Kepler, 147 Colo. 153, 362 P.2d 1037, 1039 (1961); Richards v. Hodson, 26 Utah 2d 113, 485 P.2d 1044 (1971); Belliston v. Texaco, Inc., 521 P.2d 379 (Utah 1974); Wheaton v. Pearson, 14 Utah 2d 45, 376 P.2d 946 (1962). All of the above cited authorities, however, address themselves to the situation where the plaintiff had the opportunity of raising and arguing a particular issue or theory in the initial action as, for example, in the case of Belliston v. Texaco, Inc. where the court found that the plaintiff could have raised his state claim along with his federal claim when he filed in federal court.

In the instant case, when Plaintiff filed her initial federal action, the amended Rule 64C was non-existent and consequently was not within the issues as they were made or tendered by the pleadings in that action. The doctrine of res judicata does not extend to such non-existent issues of law.

Defendants argue on page 5 of their brief that there

is a split of authority on the question of whether a subsequent change in the law precludes application of res judicata in a subsequent case. Plaintiff submits that the better reasoned and great weight of authority, as indicated in her initial brief, supports the principle that particularly where the change in the law is procedural, the doctrine of res judicata will not apply because the question presented is an entirely different one than was considered by the prior court.

POINT II

PLAINTIFF ACQUIRED IN REM OR QUASI IN REM JURISDICTION OVER THE DEFENDANTS' PROPERTY SITUATED IN SAN JUAN COUNTY BY VIRTUE OF HER WRIT OF ATTACHMENT AND IT WAS REVERSIBLE ERROR FOR THE COURT TO FIND OTHERWISE AND TO SUBSEQUENTLY VACATE PLAINTIFF'S WRIT.

Plaintiff reiterates that she claims nothing by way of personal jurisdiction over the Defendants as far as the narrow issues of this appeal are concerned.

Defendants strain to make an issue out of the fact that the events which gave rise to this cause of action occurred in Colorado and that therefore the injury suffered by Plaintiff and the decedent's estate in Utah constitutes, by some mysterious reasoning, an "undefined, fictional, illusory or insubstantial" loss. (Defendants' brief, pages 11 and 14) Defendants would have us believe that since Plaintiff lives three-quarters of a mile on the Utah side of the Colorado

border and since the death occurred barely over the border on the Colorado side, somehow that makes Plaintiff's loss "fictional, illusory or insubstantial." Plaintiff is hard pressed to see any logic in such reasoning. Regardless of where the physical act occurred, the real loss and injury and therefore the tort arose in Utah where the Plaintiff resides and where decedent's estate is.

Defendants also strain to support their argument that Utah does not consider such a loss significant enough to provide some means whereby its citizens may redress themselves in Utah courts.

The case of Alpers v. New Jersey Bell Tel. Co., 403 Pa. 626, 170 A.2d 360 (1961), heavily relied on by Defendants to support their argument, is inapplicable here because that case was decided on the basis of a 1937 Pennsylvania statute which specifically limited writs of attachment on the property of non-residents to torts committed within the State of Pennsylvania. As pointed out on pages 10-13 in Plaintiff's initial brief, the Alpers decision has been severely criticized. No such statute exists in Utah. Plaintiff submits that the authorities supporting the Alpers view are based on similar statutes or case law.

Rule 64C contains no language which limits its application to tort acts committed within the state.

Plaintiff has found no Utah cases, the case of Hydro-swift Corp. v. Louie's Boats and Motors, 27 Utah 2d 233, 494

P.2d 532 (1972), being no exception, that hold that attachment is an improper means of obtaining in rem or quasi in rem jurisdiction over a non-resident where the events occurred in another state.

The Hydroswift case deals only with the Long Arm Statute and has no application to the attachment rule and in rem jurisdiction.

Defendants' argument that jurisdiction predicated on attachment of the property of James C. Wright is improper because he has transferred the property to his parents is untenable. Plaintiff specifically alleged in her complaint (R.2) that subsequent to the shooting, "Defendant James C. Wright, without consideration and for the intended purpose of avoiding his debts, particularly the obligation owing to Plaintiff . . . and thereby defrauding his creditors, transferred and conveyed said property to the Defendants Clifford Wright and Essie Wright, husband and wife."

The affidavit submitted by Plaintiff in support of her writ of attachment specifically stated that the "Defendant James C. Wright has assigned and disposed of real property in the State of Utah with intent to defraud his creditors; and that unless this attachment issue, said Defendants, and each of them, will further attempt to assign and transfer real property located in the State of Utah for the purpose of avoiding the payment of the obligation herein sued upon, and particularly the obligation owing to Plaintiff; that in

order to obtain jurisdiction of the matter, it is necessary that the Court issue a writ of attachment, retaining and holding intact said property for the purpose of satisfying in whole or in part any judgment which may be rendered in favor of Plaintiff and against the Defendants, or either of them."

It would be improper for the Court to find the attachment improper on the basis of the transfer where Plaintiff's claim of fraudulent transfer is one of the issues to be litigated in the action.

That attachment, necessary to secure jurisdiction over a non-resident in a state court, is considered a most basic and important public interest is obvious from the cases of Fuentes v. Shevin, 407 U.S. 67, 32 L.Ed.2d 576 (1972); Ownbey v. Morgan, 256 U.S. 94, 65 L.Ed. 837, 41 S.Ct. 433, 17 A.L.R. 873 (1921); Roscoe v. Butler, 367 F. Supp. 574 (D. My. 1973); and United States Industries, Inc. v. Gregg, supra, 348 F. Supp. 1022 (D. Del. 1972), discussed under Plaintiff's Point IV herein.

POINT III

THE QUESTION RAISED BY DEFENDANTS AS TO THE CONSTITUTIONALITY OF THE UTAH ATTACHMENT RULE IS RENDERED MOOT BY THE FACT THAT BEFORE PLAINTIFF'S WRIT HAD ISSUED, DEFENDANTS HAD ENTERED A SPECIAL APPEARANCE AND HAD FILED A NOTICE OF HEARING AND MEMORANDUM OF AUTHORITIES, CONTESTING, AMONG OTHER THINGS, IN REM JURISDICTION BASED ON ATTACHMENT.

Defendants have no room to complain that they were denied due process in the attachment procedure followed by Plaintiff.

As Plaintiff's statement of facts discloses, before any writ of attachment issued in this case Defendants had already appeared specially on January 2, 1975, and again on April 22, 1975, and filed their motions to quash service of process. On May 1, 1975, before any writ had been issued, Defendants had filed their notice of hearing and memorandum of authorities wherein, in apparent anticipation that a writ of attachment would be issued, they argued that attachment is an improper means of conferring in rem jurisdiction.

The writ of attachment was not issued until May 12, 1975, two days before the hearing which had been noticed up by Defendants wherein oral argument and memoranda of authorities were submitted by both sides on the issues, including the issue of in rem jurisdiction based on attachment. [The property was actually attached by the sheriff on May 13, 1975, the day before the hearing.]

Defendants had their day in court concerning the attachment the day after their property was attached. Plaintiff challenges Defendants to find any authority which holds that such a procedure violates due process. The question of the constitutionality of the Utah attachment rule is therefore moot.

POINT IV

ASIDE FROM THE FACT THAT THE QUESTION IS MOOT, THE UTAH ATTACHMENT RULE IS CONSTITUTIONAL.

In their discussion of the Fuentes case, Defendants fail to acknowledge one of the most significant points discussed and conclusions reached by that decision, a point which has direct bearing on the instant action.

In Fuentes the United States Supreme Court discussed three main criteria in determining the constitutionality of replevin statutes: (1) the existence of an Important Governmental or General Public Interest; (2) the need for prompt action and (3) the State's maintenance of strict control over its monopoly of legitimate force.

The Fuentes court found that in most cases outright seizure of property must be preceded by a prior hearing; however, it specifically noted as follows:

In three cases, the Court has allowed the attachment of property without a prior hearing. . . . Another case involved attachment necessary to secure jurisdiction in state court--clearly a most basic and important public interest. Ownbey v. Morgan, 256 US 94, 65 L.Ed. 837, 41 S.Ct. 433, 17 ALR 873. (Emphasis added) 32 L.Ed.2d at 576, n.[29]

The Ownbey case, supra, cited by the court in Fuentes contains some significant language concerning the historical use of attachment to obtain jurisdiction over a non-resident:

Our circumstances as a nation have tended peculiarly to give importance to a remedy of this character. The division of our extended domain into many different states, each limitedly sovereign within its territory, inhabited by a people enjoying unrestrained privilege of transit from place to place in each state, and from

state to state; taken in connection with the universal and unexampled expansion of credit, and the prevalent abolishment of imprisonment for debt, would naturally, and of necessity, lead to the establishment, and, as experience has demonstrated, the enlargement and extension, of remedies acting upon the property of debtors. 65 L.Ed. at 843.

But a property owner who absents himself from the territorial jurisdiction of a state, leaving his property within it, must be deemed ex necessitate to consent that the state may subject such property to judicial process to answer demands made against him in his absence, according to any practicable method that reasonably may be adopted. A procedure customarily employed, long before the Revolution, in the commercial metropolis of England, and generally adopted by the states as suited to their circumstances and needs, cannot be deemed inconsistent with due process of law, even if it be taken with its ancient incident of requiring security from a defendant who, after seizure of his property, comes within the jurisdiction and seeks to interpose a defense. The condition imposed has a reasonable relation to the conversion of a proceeding quasi in rem into an action in personam; ordinarily it is not difficult to comply with--a man who has property usually has friends and credit--and hence in its normal operation it must be regarded as a permissible condition. (Emphasis added) 65 L.Ed. 837 at 846 (1921)

The court in Ownbey further noted that legislation providing for proceedings by attachment against non-residents, as well as against absconding debtors, was passed by the assembly of Delaware counties and the province of Pennsylvania as early as March 24, 1770.

Defendants cite the case of Roscoe v. Butler, 367 F. Supp. 574 (D. My. 1973), in support of their argument that attachment used as a means of obtaining in rem jurisdiction is unconstitutional. That case, however, specifically cited the Ownbey, supra, and Fuentes, supra, cases discussed above and made it clear that the attachment procedure as a means of

acquiring in rem jurisdiction over a non-resident comes within the exception allowed in Fuentes. Of particular importance is the court's discussion of the question regarding how "necessary" the attachment had to be to secure jurisdiction:

In Ownbey v. Morgan, 256 U.S. 94, 41 S.Ct. 433, 65 L.Ed. 837 (1921), quasi in rem jurisdiction was exercised by a Delaware court when a non-resident plaintiff attached the shares of stock of a Delaware corporation belonging to a non-resident defendant. Although the consistency of the summary attachment with due process was not addressed by the supreme court, the present court in Fuentes approved of the use of quasi in rem jurisdiction in Ownbey because it involved "attachment necessary to secure jurisdiction in state court--clearly a most basic and important public interest." 407 U.S. at 91, n.23, 92 S.Ct. at 199. The court, however, failed to define with sufficient specificity how "necessary" the attachment had to be in securing jurisdiction. This omission has prompted considerable controversy among courts and commentators. On one hand, the majority of courts considering the issue have implicitly found "necessity" merely from the fact that the defendant was a non-resident and presumably not amenable to personal service. See, e.g. United States Industries, Inc. v. Gregg, supra, 348 F. Supp. at 1021; Schneider v. Margossian, 349 F. Supp. 741, 744 (D. Mass. 1972). On the other hand, commentators have argued that "necessary" means the only way in which the state could have obtained jurisdiction in the case. Thus if an alternative procedure, such as a long arm statute, would provide in personam jurisdiction, summary attachment via quasi in rem action would not satisfy the due process clause. (Emphasis added) 367 F. Supp at 579

In the Roscoe case the court found that the return of summonses twice non est is ample evidence that in personam jurisdiction is not available, and consequently the only way in which a state can assert its jurisdiction over the defendant is by use of a quasi in rem action. In other words, said the court, since the resident debtor's appearance cannot

be obtained through the usual service of process procedures, he is in the same position vis-a-vis state jurisdictional authority as a non-resident. The court concluded that the Maryland attachment rule served a valid public interest within the meaning of Fuentes.

It is significant that the facts of the instant case satisfy both of the requirements of "necessity" discussed above by the Roscoe decision. In this case the Defendants are non-residents and not amenable to service of process and the circuit court has held that the Utah Long Arm Statute cannot be used to obtain jurisdiction. The circuit court's decision may not be binding on this Court as to the law regarding the long arm statute, but it may be binding on this case as far as res judicata is concerned. In any event, the requirement of "necessity" for in rem jurisdiction in this case is clearly satisfied.

The second test laid down in Fuentes is that of prompt action. Plaintiff submits that there is sufficient reason for prompt action where the Defendant James C. Wright has transferred his property to Defendants Clifford and Essie Wright in an attempt to avoid jurisdiction of the Court and where Plaintiff has cause to believe that Defendants may further transfer or dispose of the property so as to avoid jurisdiction and the obligation to Plaintiff.

The third criterion discussed in Fuentes is the state's maintenance of strict control over its monopoly of legitimate

force. The court in that case did not specify the controls that would be required in all cases. It merely found, as follows, that the Florida and Pennsylvania statutes abdicate effective state control over state power:

Private parties, serving their own private advantage, may unilaterally invoke state power to replevy goods from another. No state official participates in the decision to seek a writ; no state official reviews the basis for the claim to repossession; and no state official evaluates the need for immediate seizure. There is not even a requirement that the plaintiff provide any information to the court on these matters. The state acts largely in the dark. 32 L.Ed.2d 556 at 577.

By contrast to the Florida and Pennsylvania statutes, the Utah Attachment Rule imposes the following controls:

(1) The plaintiff must submit an affidavit, after filing a complaint, setting forth the following: (a) that the defendant is indebted to the plaintiff, specifying the amount thereof and the nature of the indebtedness; (b) that the attachment is not sought to hinder, delay or defraud any creditor of the defendant; (c) that the payment of the same has not been secured by any mortgage or lien upon real or personal property situate or being in this state and alleging, but not in the alternative, one of seven listed causes for attachment (two of which are here relevant): (i) that the defendant is not a resident of this state and (ii) such other additional facts showing probable cause for being and that plaintiff is justly apprehensive of losing his claim unless a writ of attachment issue.

(2) An official of the state then issues the writ of attachment upon the filing by the plaintiff of the required affidavit, together with an undertaking on the part of the plaintiff, with sufficient sureties, in a sum of not less than double the amount claimed by the plaintiff. The conditions of the undertaking are such that if the defendant recovers judgment or if the attachment is wrongfully issued, the plaintiff will pay all costs that may be awarded to the defendant and all damages which he may sustain by reason of the attachment.

(3) There is also a provision in 64C(4) for a post attachment hearing where the defendant may at any time, upon such notice to the plaintiff as the court may require, make a motion to the court in which the action is pending to have the writ of attachment discharged on the ground that the same was improperly or irregularly issued.

Plaintiff submits that the above procedures and controls required by Rule 64C are more than sufficient to meet the standards imposed by Fuentes and the other authorities cited by Defendants. Defendants' argument that the Utah rule is unconstitutional because it provides for no post attachment hearing is without merit in view of the above discussion.

The case of U.S. Industries, Inc. v. Gregg, supra, involves attachment used to obtain in rem jurisdiction over a non-resident's property. In that case the court held as follows:

The Supreme Court's footnote characterization of the attachment in the Ownbey case supplies the answer to the initial inquiry of whether the seizure was "directly necessary to secure an important governmental or general public interest." This is not a case like *Fuentes* where the statutes allowed "summary seizure" when "no more than [a] private gain is directly at stake." *Fuentes v. Shevin*, supra at 93, 92 S.Ct. at 2000. As previously noted a state has a legitimate interest in the exercise of judicial jurisdiction with respect to property within its borders. Seizure for the purpose of securing such jurisdiction in a state court, accordingly, serves, in the words of the Supreme Court, "a most basic and important public interest." (Emphasis added) 348 F. Supp. 1004 at 1021

Here, unlike *Fuentes*, the order effecting the seizure was issued by a state court judge. That judge had been supplied with a complaint and with an affidavit which revealed: (1) that Gregg was a non-resident and accordingly not subject to the in personam jurisdiction of the court, (2) that Gregg owned specifically described, alienable property within the State of Delaware, (3) the value of that property and (4) the source of the plaintiffs' information on these subjects. This information provided the basis for a determination that the seizure would be in furtherance of the "important public interest" underlying the sequestration statute and that prompt action would be required. 348 F. Supp. at 1022

Plaintiff submits that the Utah Attachment Rule and the procedure followed in the present action comply with all of the standards enumerated by the Supreme Court in *Fuentes* and that Rule 64C is therefore constitutional.

CONCLUSION

Defendants' argument that res judicata applies is without merit for the following reasons:

1. The question of in rem or quasi in rem jurisdiction based on the amended Rule 64C was never considered by the circuit court and was not within the issues as they were tendered in the pleadings to that court because Rule 64C in

its amended form was non-existent at the time Plaintiff filed her action and at the time Defendants took their appeal.

2. A subsequent change in a procedural rule precludes the application of the doctrine of res judicata.

Defendants' argument that the lower court was without in rem jurisdiction based on Plaintiff's writ of attachment must be rejected for the following reasons:

1. There is no statutory or judicial authority in Utah which precludes the use of attachment as a means of obtaining in rem jurisdiction over the Defendants' property where the events from which the cause of action arose occurred in another state and where the injury and loss is sustained by the Plaintiff residing in Utah.

2. This Court has recognized the use of attachment as a means of obtaining in rem jurisdiction over the property of a non-resident. [Plaintiff's initial brief, p.13, et seq.]

3. The United States Supreme Court has recognized attachment as a necessary means of securing jurisdiction in state court and a most basic and important public interest. (Plaintiff-Appellant's reply brief, Point IV)

Defendants' constitutional challenge is moot because they were afforded ample due process by the procedures followed as discussed in Plaintiff's Point III herein. In any event, the Utah Attachment Rule is constitutional for the reasons discussed under Plaintiff's Point IV herein.

Respectfully submitted,

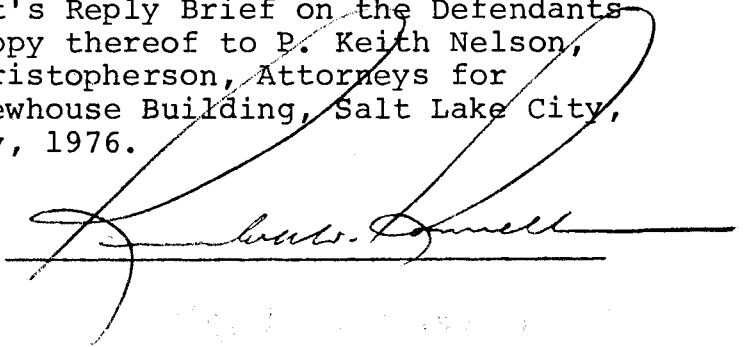
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CERTIFICATE OF SERVICE

SERVED the foregoing Appellant's Reply Brief on the Defendants Respondents by delivering a copy thereof to P. Keith Nelson, Brandt, Miller, Nelson and Christopherson, Attorneys for Defendants-Respondents, 716 Newhouse Building, Salt Lake City, Utah, this 6th day of February, 1976.

A handwritten signature in dark ink, appearing to read "Randall L. Romrell", is written over a horizontal line. The signature is fluid and cursive, with a large loop at the end.