

1988

## Schoney v. Memorial Estates : Unknown

Utah Court of Appeals

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March 13, 1990

Clerk of the Court  
Utah Court of Appeals  
230 South 500 East, #400  
Salt Lake City, UT 84102

Dear Sir:

RE: Schoney v. Memorial Estates  
Civil No: 880630

Oral argument was held on this case on March 12, 1990. During oral argument, appellant relied on the case of Call v. City of West Jordan; however, counsel did not have the citation at hand. The citation, should the Court be inclined to further review the case, is 727 P.2d 180 (Utah 1986).

That case relates to Conclusions of Law number 1 of Exhibit E to the Appendix to Appellant's Brief. (Finding of Fact and Conclusions of Law in Support of the Court Order Decertifying the Class.) Specifically, Judge Dee's conclusion of law was that:

The named plaintiffs have failed to prove the class is so numerous that joinder of all members is impractical since the names and address of individuals signing the same form of contract as the Schoneys are readily available.

Call v. West Jordan, supra, described numerous criteria for determining "numerosity"<sup>1</sup> which were apparently not considered by Judge Dee. Compare, Philadelphia Electric Co. v. Anaconda American Brass Co., 43 F.R.D. 452 (E.D. Pa. 1968). ("No necessity for encumbering the judicial process with 25 lawsuits if one will do.")

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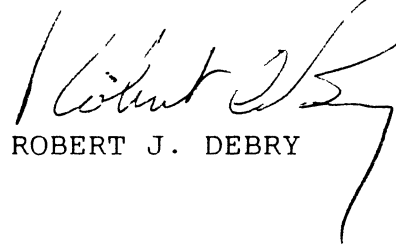
<sup>1</sup> Rule 23(a) of the Utah Rules of Civil Procedure.

Utah Court of Appeals Clerk  
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Please distribute this letter to members of the panel pursuant to Rule 24(j) of the Rules of the Utah Court of Appeals.

Sincerely,

ROBERT J. DEBRY & ASSOCIATES

A handwritten signature in black ink, appearing to read "Robert J. Debry", written over the typed name below.

ROBERT J. DEBRY

RJD\jn  
cc: Joseph Henroid  
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SLC, UT 84111