

1980

## Rio Algom Corporation v. Jimco Ltd et al : Brief in Opposition to Petition for Rehearing

Utah Supreme Court

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IN THE SUPREME COURT OF THE STATE OF UTAH

\* \* \* \* \*

RIO ALGOM CORPORATION, )  
 )  
Plaintiff-Appellant, )  
 )  
vs. )  
 )  
JIMCO, LTD., HUMECA EXPLORATION )  
COMPANY, JIM L. HUDSON, JUANITA )  
J. MEYER AS EXECUTRIX OF THE )  
ESTATE OF DANIEL H. MEYER, ELDON )  
J. CARD, NORMA HUDSON, JEAN L. )  
CARD, JUANITA J. MEYER, N. J. )  
WHITE, AUDREY WHITE, WILMA WHITE, )  
OTIS DIBLER, DOROTHY MAE DIBLER, )  
GRACE DAVIS, and MARLOWE C. SMITH, )  
 )  
Defendants-Respondents. )

CASE NO. 16032

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BRIEF IN OPPOSITION TO  
PETITION FOR REHEARING

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Petition for Rehearing from the Decision  
of the Utah Supreme Court filed September 19, 1980

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BRIEF IN OPPOSITION TO  
PETITION FOR REHEARING

Case No. 16032

\* \* \* \* \*

The Audrey Defendants respectfully submit that the petition of Rio Algom Corporation, plaintiff-appellant, should be denied.

APPELLANT RAISES NO NEW MATTERS

Appellant's petition attempts to present the same issues to this Court for a third time. (Prior to the appeal, Rio petitioned this Court for an extraordinary writ, briefs were submitted and oral argument was heard on all of the points Rio later raised again on appeal. Rio's request was denied).

This Court in its unanimous opinion, as Rio concedes, "has carefully considered each legal argument" of Rio, and as Rio further concedes, this Court's grounds for rejecting them "are certainly within reasonable parameters".

Rio, in its Petition for Rehearing, merely restates these arguments and urges rehearing because, to Rio, the result

seems to be unjust and inequitable. This is the understandable reaction of any defeated litigant, but if it were grounds for rehearing, this Court would have to grant a rehearing on every case before it. As this Court has held from its early days, no rehearing will be granted where nothing new and important was offered for consideration, Ducheneau v. House, 4 V. 483, 11 P. 618; Jones v. House, 4 V. 484, 11 P. 619.

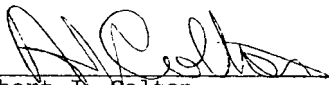
This Case Has Been Completely Settled So Far As  
the Audrey Defendants are Concerned

This Court should not lose sight of the fact that this action was brought by Rio in the nature of an interpleader for a declaratory judgment, Rio alleging it was brought because the two groups of defendants could not agree as to the allocation of royalty monies. The two groups of defendants have now reached a settlement of their differences, and the Audreys are completely out of this lengthy and costly litigation. As this Court pointed out, the law favors settlement of disputes. The fact that certain unresolved disputes remain as between Rio and the Jimcos is irrelevant. The basic question which led to the initiation of this lawsuit in the first place has been settled and resolved, and has received the approval of both the trial court and this Court. What Rio originally requested has been accomplished.

CONCLUSION

For the above reasons, the Audrey Defendants move that the petition of Rio Algom Corporation for a rehearing be summarily denied.

Respectfully submitted this 29th day of October, 1980.

  
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MAILING CERTIFICATE

On this 29th day of October, 1980, I hereby certify that  
I mailed a true and accurate copy of the foregoing BRIEF IN  
OPPOSITION TO PETITION FOR REHEARING to the following parties  
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