

2001

William D. Conrad and Joan V. Conrad v. Glenn C. Anderson, Jr., Donald A. Mower, International Cedar Homes, Town & Country Building Consultants, and Lindal Cedar Homes : Response to Petition for Rehearing

Utah Supreme Court

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David Lloyd; Attorneys for Defendant-Respondent Anderson.

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13 JUN 1977

IN THE SUPREME COURT OF THE  
STATE OF UTAH

BRIGHAM YOUNG UNIVERSITY  
J. Reuben Clark Law School

WILLIAM D. CONRAD and  
JOAN V. CONRAD,

Plaintiffs and  
Respondents

--VS--

GLENN C. ANDERSON, JR.,  
DONALD A. MOWER, INTERNATIONAL  
CEDAR HOMES, INC., a Utah  
corporation, TOWN & COUNTRY  
BUILDING CONSULTANTS, INC.,  
a Utah corporation, and LINLAL  
CEDAR HOMES,

Defendants-Appellants.

Case No. 14475

RESPONDENTS, WILLIAM D. CONRAD and JOAN V. CONRAD,

ANSWER TO

GLENN C. ANDERSON, JR.'S PETITION

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Respondents

SUPREME COURT

WILLIAM D. CONRAD and  
JOAN V. CONRAD,  
  
Plaintiffs and  
Respondents

-VS-

GLENN C. ANDERSON, JR.,  
DONALD A. MOWER, INTERNATIONAL  
CEDAR HOMES, INC., a Utah  
corporation, TOWN & COUNTRY  
BUILDING CONSULTANTS, INC.,  
a Utah corporation, and LINDAL  
CEDAR HOMES,

Defendants-Appellants.

Case No. 14475

RESPONDENTS, WILLIAM D. CONRAD and JOAN V. CONRAD,

ANSWER TO

GLENN C. ANDERSON, JR.'S PETITION

The respondents, William D. Conrad and Joan V. Conrad, hereby respond to the petition for re-hearing filed before this court by the appellant, Glenn C. Anderson, Jr., hereinafter referred to as the petitioner.

The respondents do not object to the petitioner's motion for a re-hearing. However, the respondents do object

to some of the allegations of fact set forth in the petition and to the part of the petition requesting the court to set aside the judgment obtained against the petitioner, Glenn C. Anderson, Jr., in the lower court or any order granting a judgment against the respondents, William D. Conrad and Joan V. Conrad.

The petitioner, Glenn C. Anderson, Jr., alleges in paragraph 6 of his petition for re-hearing that the respondents agreed to defend against the appeal filed by the appellant, Mower. This allegation is untrue and without any foundation whatsoever. The petitioner, Glenn C. Anderson, Jr., knows from personal knowledge that the appellant, Donald A. Mower, is substantially judgment proof. The respondents did not at any time indicate that they intended to defend the appeal or intend to do anything other than obtain the best settlement possible.

The appellant filed an appeal on the 10th day of February, 1976 and certified thereon that a copy was sent to all attorneys of record. The appellant also filed a certificate of ordering transcript on which the appellant stated that he was without sufficient funds to order a transcript and was relying upon the one ordered by Glenn C. Anderson, Jr. pursuant to his appeal. That document also indicates that copies were sent to all counsel of record. On May 10, 1976 the petitioner, Glenn C. Anderson, Jr., withdrew his appeal and requested that Donald A. Mower be

given until June 10, 1976 in which to file a transcript. Thereafter the petitioner did nothing to protect his interest in the matter before the court. In this case the petitioner entered in to a complete settlement and satisfaction with the respondents on the 10th day of May, 1976 and the appellant, Donald A. Mower, entered into such a settlement on October of 1976.

It is the position of the respondents, William D. Conrad and Joan V. Conard, that they are the injured parties and under the law have a right to satisfy their judgment against one or both of the defendants. Any issue of contribution as between the defendants is a matter that must be resolved as between them. The law does not impose an obligation upon the respondents to protect the interest of either of the parties and only provides that if a plaintiff settles with one party without reserving his rights as against the other he may release his claim against the other party. It should be noted that the petition does not cite any authority justifying his request for a judgment against the respondents.

#### SUMMARY

The respondents do not object to the court allowing Glenn C. Anderson, Jr. to intervene and defend any interest he may have in the lower court's judgment. However, the respondents do object to any action on the part of the court imposing liability on the Conrads on the basis that the

facts do not justify such an action and that no law exists authorizing the court to enter such an order.

Respectfully submitted,

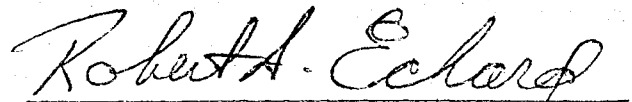


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CERTIFICATE OF MAILING

I hereby certify that I mailed a copy of the foregoing Answer to Glenn C. Anderson, Jr.'s Petition to David Lloyd, Attorney for Petitioner, 606 Newhouse Building, Salt Lake City, Utah 84111, and William H. Henderson, Attorney for Defendant-Appellant Mower, 431 South 300 East Suite 208, Salt Lake City, Utah 84111 this 18 day of February, 1977.



ROBERT A. ECHARD