

1998

Macris & Associates, Inc. v. Neways, Inc. Thomas E. Mower, and Leslie D. Mower : Order

Utah Court of Appeals

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Unknown.

Unknown.

Allen K. Davis Christopher S. Crump 150 E 400 N Salem UT 84653 D. Frank Wilkins Chris R. Hogle Berman, Gaufin, Tomsic, & Savage 50 So Main St #1250 Salt Lake City UT 84144

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FILED

Utah Court of Appeals

SEP 25 1998

IN THE UTAH COURT OF APPEALS

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Macris & Associates, Inc.,)
)
 Plaintiff, Appellee and)
 Cross-Appellant,)
 v.)
)
 Neways, Inc. Thomas E. Mower,)
 and Leslie D. Mower,)
)
 Defendants, Appellants)
 and Cross-Appellees.)

Julia D'Alesandro
Clerk of the Court

ORDER

Case No. 981004-CA
COURT OF APPEALS
BRIEF

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CKET NO.

981004-CA

Before Judges Davis, Wilkins, and Orme.

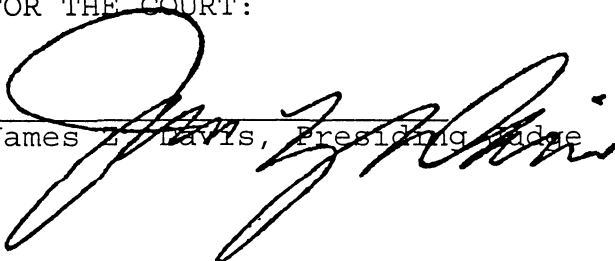
This case is before the court on appellants and cross-appellees' (hereinafter "Neways") motion to supplement the record and on appellee and cross-appellant's (hereinafter "Macris") motion to strike portions of Neways' reply brief.

IT IS HEREBY ORDERED that Neways' motion to supplement the record under Utah R. App. P. 11(h) is denied on the basis that it seeks to introduce new material into the trial court record. See Olson v. Park-Craig-Olson, 815 P.2d 1356, 1359 (Utah Ct. App. 1991).

IT IS FURTHER ORDERED that Macris' motion to strike is granted, in part, and the following statements and items are stricken: (1) the addendum containing the Amended Counterclaim and Third Party Complaint and the Answer to Amended Counterclaim and Answer to Third Party Complaint filed in Case No. 910400358; (2) the second and third sentences of the first full paragraph on page 2; (3) the statement in the second full paragraph on page 2, to wit: "Macris filed his last pleading, Answer to Amended Counterclaim and Answer to Third Party Complaint, on August 23, 1993;" (4) the factually incorrect statement in the first full paragraph on page 22, to wit: "Almost a year later, Macris filed a pleading, an Amended Counterclaim and Answer to Third Party Complaint." The motion to strike is denied as to all additional statements Macris sought to strike, and the determination whether those statements are supported in the existing trial court record is reserved for the panel considering the merits of this appeal.

Dated this 26th day of September, 1998.

FOR THE COURT:


 James E. Davis, Presiding Judge

CERTIFICATE OF MAILING

I hereby certify that on September 25, 1998, a true and correct copy of the foregoing ORDER was deposited in the United States mail to the parties listed below:

Allen K. Davis
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150 E 400 N
Salem UT 84653

D. Frank Wilkins
Chris R. Hogle
Berman, Gaufin, Tomsic, & Savage
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Salt Lake City UT 84144

Dated this September 25, 1998.

By 
Deputy Clerk

Case No. 981004-CA