

2001

## James F. Trees v. Walter Lewis : Reply Brief

Utah Supreme Court

Follow this and additional works at: [https://digitalcommons.law.byu.edu/byu\\_sc2](https://digitalcommons.law.byu.edu/byu_sc2)



Part of the [Law Commons](#)

Original Brief Submitted to the Utah Supreme Court; digitized by the Howard W. Hunter Law Library, J. Reuben Clark Law School, Brigham Young University, Provo, Utah; machine-generated OCR, may contain errors.

Thompson, Hughes, and Reber; Michael D. Hughes; Attorney for Respondent.

Bell and Bell; J. Richard Bell; Attorney for Appellant.

---

### Recommended Citation

Reply Brief, *James F. Trees v. Walter Lewis*, No. 19333.00 (Utah Supreme Court, 2001).

[https://digitalcommons.law.byu.edu/byu\\_sc2/1658](https://digitalcommons.law.byu.edu/byu_sc2/1658)

This Reply Brief is brought to you for free and open access by BYU Law Digital Commons. It has been accepted for inclusion in Utah Supreme Court Briefs by an authorized administrator of BYU Law Digital Commons. Policies regarding these Utah briefs are available at

[http://digitalcommons.law.byu.edu/utah\\_court\\_briefs/policies.html](http://digitalcommons.law.byu.edu/utah_court_briefs/policies.html). Please contact the Repository Manager at [hunterlawlibrary@byu.edu](mailto:hunterlawlibrary@byu.edu) with questions or feedback.

UTAH  
DOCUMENT  
KFU  
45.9  
.S9  
DOCKET NO. 19333

J. RICHARD BELL  
JACQUE B. BELL  
BELL & BELL  
303 East 2100 South  
Salt Lake City, Utah 84115  
Telephone 487-7756

Attorneys for Defendant-Appellant Walter Lewis

---

IN THE SUPREME COURT OF THE STATE OF UTAH

---

JAMES F. TREES )  
Plaintiff-Respondent)

vs. )

WALTER LEWIS ) No. 19333  
Defendant-Appellant. )

---

APPELLANT'S REPLY TO  
CROSS APPEAL OF PLAINTIFF-RESPONDENT

---

Appeal and Cross-Appeal from Judgment of Fifth  
Judicial District Court of Washington County,  
State of Utah, the Honorable J. Harlan Burns,  
District Judge.

---

BELL & BELL  
J. Richard Bell  
Attorney at Law  
303 East 2100 South  
Salt Lake City, Utah 84115  
Attorney for Appellant  
Telephone (801) 487-7756

THOMPSON, HUGHES, & REBER  
Michael D. Hughes  
Attorney for Respondent  
148 East Tabernacle  
St. George, Utah 84770  
Telephone: (801) 673-4892

**FILED**  
OCT 15 1984

Clerk, Supreme Court, Utah

J. RICHARD BELL  
JACQUE B. BELL  
BELL & BELL  
303 East 2100 South  
Salt Lake City, Utah 84115  
Telephone 487-7756

Attorneys for Defendant-Appellant Walter Lewis

IN THE SUPREME COURT OF THE STATE OF UTAH

JAMES F. TREES )  
Plaintiff-Respondent)  
vs. )  
WALTER LEWIS ) No. 19333  
Defendant-Appellant. )

APPELLANT'S REPLY TO  
CROSS APPEAL OF PLAINTIFF-RESPONDENT

Appeal and Cross-Appeal from Judgment of Fifth  
Judicial District Court of Washington County,  
State of Utah, the Honorable J. Harlan Burns,  
District Judge.

BELL & BELL  
J. Richard Bell  
Attorney at Law  
303 East 2100 South  
Salt Lake City, Utah 84115  
Attorney for Appellant  
Telephone (801) 487-7756

THOMPSON, HUGHES, & REBER  
Michael D. Hughes  
Attorney for Respondent  
148 East Tabernacle  
St. George, Utah 84770  
Telephone: (801) 673-4892

J. RICHARD BELL  
JACQUE B. BELL  
BELL & BELL  
303 East 2100 South  
Salt Lake City, Utah 84115  
Telephone 487-7756

Attorneys for Defendant- Appellant Walter M. Lewis

IN THE SUPREME COURT OF THE STATE OF UTAH

---

JAMES F. TREES,	)	APPELLANT'S REPLY TO CROSS
Plaintiff-Respondent	)	APPEAL OF DEFENDANT-RESPONDENT
vs.	)	
WALTER M. LEWIS,	)	Case No. 19333
Defendant-Appellant	)	

---

Contrary to Plaintiff-Respondent's (hereafter called Plaintiff) Cross Appeal statement, Appellant was in no way aware, nor is he now aware, that he compelled Plaintiff Trees to purchase or "to be able to purchase" the DeMille property and in fact the Appellant specifically negates that representation. Trees entered into his purchase with the DeMilles long before he entered into any negotiations with Appellant Lewis. There was no provision in the DeMille purchase which tied it to or made it subject to the purchase of the property of Appellant Lewis. The DeMille transaction was held up over an argument by the DeMille family that they wanted visitation rights to the family cemetery. Those rights were substantially reduced in exchange for an additional sum of money paid by Trees to DeMilles. The trial Court also negated that contention when it ruled that the Plaintiff had not presented a prima facie case. It is highly

presumptuous of Plaintiff to represent to this Court as if it were a fact, a state of mind that was never held by the Appellant nor in any way proven by the Respondent.

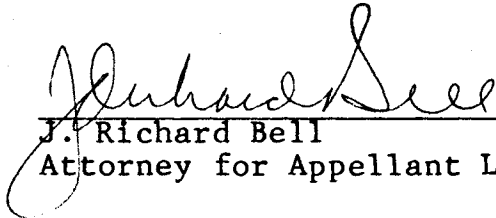
After spending forty-nine pages on Plaintiff's Brief in opposition to the Appellant's Brief, the Plaintiff devotes one page to his Cross Appeal. No specific points or authorities are set forth to assist the Appellant in replying to the Cross Appeal. The Appellant finds himself in the position of not knowing what the claim really is of the Plaintiff's Cross Appeal. It is just as difficult to attempt to respond and reply to the Cross Appeal as it was to be prepared to respond and and cross examine attorney Snow, after waiver by the Plaintiff Trees of his privileged communication with his attorney Snow in the second day of trial. The fact is, it is impossible. In each instance, the Appellant does not know what claim or evidence the Plaintiff or may be presenting or talking about at a subsequent date.

At best, the Plaintiff is requesting the Court to read the transcript, examine the files, and make a Judgment thereon which will hopefully result in a reversal of the trial Court, in the event that this Court grants a reversal of the trial court on the appeal of the Appellant Lewis. Such a procedure is not one contemplated by the Utah Rules of Civil Procedure or the case law of the State of Utah.

It is respectfully submitted that the Cross Appeal be denied, and that the Judgment of the lower court entered at the end of the Plaintiff's case be affirmed.

Respectfully submitted this 16th day of October, 1984.

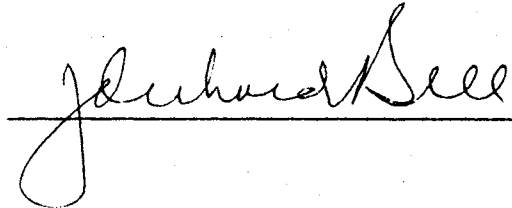
BELL & BELL, by

  
\_\_\_\_\_  
J. Richard Bell  
Attorney for Appellant Lewis

CERRIFICATE OF MAILING

Mailed a true and correct copy of the foregoing, postage prepaid, this 16th day of October, 1984, to attorney for Plaintiff-Respondent:

Michael D. Hughes, Esq.  
148 East Tabernacle,  
St. George, Utah, 84770

  
\_\_\_\_\_