

1980

Donna Charlene Hadden and Stanley William Hadden v. Farr Construction Company, Wayne Farr and Miland Farr : Petition For Re-Hearing

Utah Supreme Court

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IN THE SUPREME COURT FOR THE
STATE OF UTAH

DONNA CHARLENE HADDEN and)
STANLEY WILLIAM HADDEN,)
Plaintiffs/Appellants,) PETITION FOR RE-HEARING
vs.)
FARR CONSTRUCTION COMPANY,)
WAYNE FARR AND MILAND FARR,)
Defendants/Respondents.) Case No. 16811

Pursuant to Rule 76 (e) (1), Plaintiffs and Appellants
herein respectfully petition for a re-hearing of the Supreme
Court's decision rendered in a Per Curiam decision on the 18th
day of November, 1980.

Attached hereto is a Memorandum of Points relied upon in
said matter.

DATED this _____ day of December, 1980.

DARRELL G. RENSTROM

Certificate of Mailing

I, Darrell G. Renstrom, do hereby certify that a true and
correct copy of the above and foregoing Petition for Re-hearing
was mailed to the Defendants/Respondents' attorney, Donald C.
Hughes, Jr., at his address at 2411 Kiesel Avenue, Ogden, Utah
84401, on this _____ day of December, 1980.

DARRELL G. RENSTROM

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IN THE SUPREME COURT FOR THE
STATE OF UTAH

DONNA CHARLENE HADDEN and
STANLEY WILLIAM HADDEN,

Plaintiffs/Appellants,

MEMORANDUM IN SUPPORT OF
PETITION FOR RE-HEARING

vs.

FARR CONSTRUCTION COMPANY,
WAYNE FARR and MILAND FARR,

Defendants/Respondents.

Case No. 16811

The Per Curiam writer of the November 18, 1980, opinion in the above-entitled matter appears to miss the important point:

1. The trial judge dismissed Plaintiffs' Complaint, claiming that pursuant to an agreed set of facts, we were bound by the 1903 rule of law.

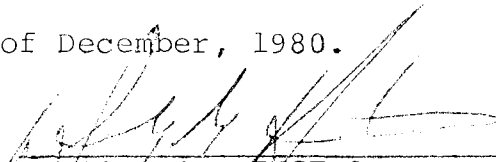
2. Upon a motion for reconsideration and after the Plaintiffs had demonstrated the judicial exceptions to the 1903 rule, the trial court then altered its position and without any stipulation or evidence to the contrary, denied the Plaintiff's motion for a reconsideration.

3. It is the contention of the Plaintiffs that if given the opportunity, they will produce the evidence that permits them to fall within the Wrathall vs. Johnson criteria.

4. The trial court pre-supposed that we had no such evidence and shifted its position from its initial denial.

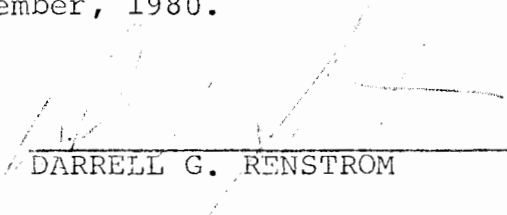
WHEREFORE it is respectfully requested that the Court grant a re-hearing.

DATED this 4th day of December, 1980.


DARRELL G. RENSTROM

Certificate of Mailing

I, Darrell G. Renstrom, do hereby certify that a true and correct copy of the foregoing Memorandum was mailed to the Utah State Supreme Court at 332 State Capitol, Salt Lake City, Utah 84114, and to Mr. Donald C. Hughes, Jr., Attorney at Law, at his address at 2411 Kiesel Avenue, Ogden, Utah 84401, on this 17 day of December, 1980.



DARRELL G. RENSTROM