

1989

# Deanna Hansen v. Ted Eugene Hansen : Supplemental Memorandum of Appellee

Utah Court of Appeals

Follow this and additional works at: [https://digitalcommons.law.byu.edu/byu\\_ca1](https://digitalcommons.law.byu.edu/byu_ca1)



Part of the [Law Commons](#)

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

Sheldon R. Carter; Harris, Carter & Harrison; Attorney for Appellant.

Wilford N. Hansen, Jr.; Attorney for Appellee.

---

## Recommended Citation

Brief of Appellee, *Hansen v. Hansen*, No. 890637 (Utah Court of Appeals, 1989).

[https://digitalcommons.law.byu.edu/byu\\_ca1/2298](https://digitalcommons.law.byu.edu/byu_ca1/2298)

This Brief of Appellee is brought to you for free and open access by BYU Law Digital Commons. It has been accepted for inclusion in Utah Court of Appeals 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 COURT OF APPEALS  
BRIEF**

UTAH  
DOCUMENT  
KFU  
50  
A10  
DOCKET NO

4

3-CA

---

---

IN THE UTAH COURT OF APPEALS

---

DEANNA HANSEN,  
Plaintiff/Appellant,

vs.

Case No. 890637-CA

TED EUGENE HANSEN,  
Defendant/Appellee.

---

SUPPLEMENTAL MEMORANDUM OF APPELLEE

---

Appeal arising from divorce proceedings in the Fourth  
Judicial District Court, Judge Ray M. Harding  
presiding.

---

Shelden R Carter  
HARRIS, CARTER & HARRISON  
Attorney for Appellant  
3325 North University Avenue  
Suite 200  
Provo, Utah 84604

Wilford N. Hansen, Jr.  
Attorney for Appellee  
1172 East Highway 6  
Suite 7  
P.O. Box 67  
Payson, Utah 84651

---

Priority Number 16 (Rule 29)

---

**FILE**

Mary T. Noonan  
Clerk of the Court  
Utah Court of Appeals

---

---

IN THE UTAH COURT OF APPEALS

---

DEANNA HANSEN,  
Plaintiff/Appellant,

vs.

Case No. 890637-CA

TED EUGENE HANSEN,  
Defendant/Appellee.

---

SUPPLEMENTAL MEMORANDUM OF APPELLEE

---

Appeal arising from divorce proceedings in the Fourth  
Judicial District Court, Judge Ray M. Harding  
presiding.

---

Shelden R Carter  
HARRIS, CARTER & HARRISON  
Attorney for Appellant  
3325 North University Avenue  
Suite 200  
Provo, Utah 84604

Wilford N. Hansen, Jr.  
Attorney for Appellee  
1172 East Highway 6  
Suite 7  
P.O. Box 67  
Payson, Utah 84651

---

Priority Number 16 (Rule 29)

---

---

This Supplemental Memorandum of Defendant/Appellee filed pursuant to the Order of the Utah Court of Appeals entered September 10, 1990.

Plaintiff contends that "due to her sacrifices and efforts in their joint enterprises" she is entitled to a portion of any increase in the Defendant's separate property. Plaintiff cites an exception in Mortensen to support her claim, suggesting that she has, by "her efforts or expense contributed to the enhancement, maintenance or protection of that property, thereby acquiring an equitable interest in it." Plaintiff acknowledges she "did not actively participate in the farming or ranching" enterprise, but contends that her "financial assistance rendered to the family" allowed Defendant to "divert family income to the purchase and acquisition of said additional property."

Defendant responds by focusing the court's attention at the Settled and Approved Statement of Evidence which notes in paragraphs 6 and 8 that Plaintiff and Defendant made similar financial contributions to the family. Other than their home and the parties' daughter, there were no "joint enterprises" in this marriage (SE (Statement of Evidence) prg.(paragraph) 11), and no extraordinary sacrifice in either of these enterprises by Plaintiff is mentioned. Paragraph 12 clarifies that Defendant made no contribution to the farming operation from his wages, and therefore did not "divert any family income" to his separate property.

While Plaintiff enjoys her separate property, business, and inheritances free of liens and encumbrances, together with the rents therefrom (SE prg.7), Defendant's one-half interest in the cow/calf operation is secured by a \$25,000.00 revolving farm line of credit. While the cow/calf operation has increased in value since the original gift, all of said increase has been purchased with the use of the farm line of credit, and the same has been acknowledged by the Plaintiff. (TR p.105). Any increase in value to the operation is offset by the \$25,000.00 line of credit. Through the use of this line of credit, Defendant and his brother have made the farm self-sustaining, but it has provided no profit to date. (SE prg.12) (TR p.112).

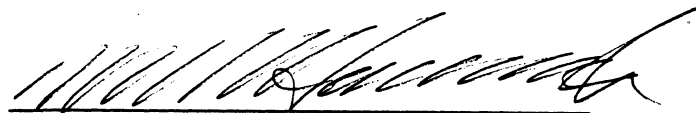
Had Plaintiff not contributed in any way to family expenses, Defendant still would not have contributed to the cow/calf operation from his wages. However, Plaintiff would not have enjoyed the enhancements and improvements to her separate property, business and inheritances which Defendant made from his separate property and income. Defendant paid for the remodel of the Plaintiff's beauty shop (Deposition of Plaintiff, Addendum to Brief p.A-3), and with Defendant's financial assistance, Plaintiff was able to purchase another one-quarter interest in her mother's home. (Deposition of Plaintiff, Addendum to Brief p.A-4). Defendant also took out a home equity loan, and made all the payments as well, as the result of an IRS audit of her beauty shop business in 1986 for which Plaintiff incurred a \$3,000.00

penalty. (SE prg.9). The trial court held that despite these contributions by Defendant, Plaintiff would be allowed to keep her separate properties, business, and inheritances, together with their increase. (TR pp.143 et seq.).

Plaintiff has not protected, maintained, or enhanced Defendant's separate property. Plaintiff's limited contributions have been only to marital property. Since Defendant did not use his wages for the cow/calf operation (SE prg.12), Defendant's wages were used for other family expenses as well as to purchase and enhance Plaintiff's separate property and marital property. For example, Defendant made all of the house payments and paid for the garage and family room additions and the purchase of the additional side lot and large garage. (SE prg.8). Defendant paid for the boat, camper, tools, three-wheeler, snowmobiles and snowmobile trailer, riding lawn mower, and large freezer. (SE prg.10) (Deposition of Plaintiff, p.12, published on TR p.92). The parties also acquired household appliances and furniture. The marital property was fairly and equitably divided.

Since Plaintiff does not meet the criteria of the Mortensen exception, the decision of the trial court must be affirmed.

Respectfully submitted,



WILFORD N. HANSEN, JR.  
Counsel for Defendant/Appellee

I HEREBY CERTIFY that I personally mailed true and correct copies of the foregoing on the 10th day of December, 1990, by first-class United States mail, postage prepaid, to the following:

Four copies to:

Shelden R Carter  
Attorney for Appellant  
HARRIS, CARTER & HARRISON  
3325 North University Avenue  
Suite 200  
Provo, Utah 84604

Original and seven copies to:

Utah Court of Appeals  
400 Midtown Plaza  
230 South 500 East  
Salt Lake City, Utah 84102



WILFORD N. HANSEN, JR.  
Counsel for Defendant/Appellee