

1988

# Steven H. Swayne v. L.D.S. Social Services, John Doe, and Jane Doe : Unknown

Utah Supreme Court

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UTAH SUPREME COURT

BRIEF

KET NO. 880384  
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January 9, 1990

JAN 10 1990

Geoffrey Butler  
Clerk of Utah Supreme Court  
332 State Capitol  
Salt Lake City, Utah 84114

Re: Swayne v. L.D.S. Social Services  
Case No. 880384


Dear Geoffrey:

Pursuant to Rule 24(j), R. Utah S. Ct., defendant-respondent L.D.S. Social Services hereby submits a supplemental authority in support of its position taken in the briefs and oral argument. The case is Scheller v. Pessetto, 121 Utah Adv. Rep. 39 (Utah App. filed November 14, 1989). This case upholds the constitutionality of a statute that permits an unwed mother to inherit from her deceased illegitimate child under all circumstances, but accords the father the same right only if he demonstrates, in essence, a substantial relationship with the child. The Court of Appeals rejected the unwed father's arguments that the statute violates the equal protection and due process provisions of the United States Constitution and the equal rights provision of the Utah Constitution, Art. IV, § 1. The court concluded that because "mothers and fathers of illegitimate children are not similarly situated," the two may be accorded different legal rights without violating equal protection. Id. at 41.

This additional authority pertains to Points II and III of Respondents' Brief and to Point I of the Supplemental Brief of Respondents.

Very truly yours,

KIRTON, McCONKIE & POELMAN

  
Merrill F. Nelson

MFN:gt