

1989

Sandy City v. Salt Lake County, Salt Lake County Planning commission, McDonald's Corporation, et al. : Unknown

Utah Supreme Court

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DOCKET NO.

BRIEF
890211

THE OFFICE OF
SALT LAKE COUNTY ATTORNEY



DAVID E. YOCOM
COUNTY ATTORNEY

FILED

April 12, 1991

[Signature] APR 15 1991

Clerk, Supreme Court, Utah

WALTER R. ELLETT, CHIEF DEPUTY
JUSTICE DIVISION
WILLIAM R. HYDE, CHIEF DEPUTY
CIVIL DIVISION
DONALD SAWAYA, CHIEF DEPUTY
GOVERNMENTAL SERVICES DIVISION

Geoffrey J. Butler
Court Clerk
Utah Supreme Court
332 State Capitol Building
Salt Lake City, Utah 84114

Re: Sandy City v. Salt Lake County, Salt Lake County
Planning Commission, McDonald's Corporation, et al.
Case No. 890211

Dear Mr. Butler:

In the captioned matter, the issue of the applicability of the principle of res judicata when the first case is on appeal was raised during the oral argument heard on April 8, 1991. This issue was not addressed in the briefs. In researching this issue, I have found the case of Young v. Hansen, 218 P.2d 674 (Utah 1950), where the Utah Supreme Court held that a judgment is not final for purposes of res judicata when the case is on appeal. Although the case is not helpful to Salt Lake County's position, I believe the canons of ethics require disclosure of the case to the Court.

The Hansen case was not cited by the Utah Court of Appeals in the case of Copper State Thrift & Loan v. Bruno, 735 P.2d 387 (Ut. App. 1987), where the Court held that a judgment is final for purposes of res judicata until reversed upon appeal. The Court of Appeals cited Levy v. Cohen, 137 Cal. Rptr. 162, 561 P.2d 252 (1977) and Stoll v. Gottlieb, 83 L.Ed. 104 (1938), as authority for its holding.

Very truly yours,

[Signature]

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R1138/26
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