

1989

## Huston v. Lewis : Unknown

Utah Supreme Court

Follow this and additional works at: [https://digitalcommons.law.byu.edu/byu\\_sc1](https://digitalcommons.law.byu.edu/byu_sc1)



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.

Ralph M. Marsh; Backman, Clark, and Marsh; Attorneys for Defendants.

R. Stephen Marshall; Marilyn M. Henriksen; Attorneys for Appellee.

---

### Recommended Citation

Legal Brief, *Huston v. Lewis*, No. 890476.00 (Utah Supreme Court, 1989).  
[https://digitalcommons.law.byu.edu/byu\\_sc1/2751](https://digitalcommons.law.byu.edu/byu_sc1/2751)

This Legal 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.

KFU  
45.9  
\$9

DOCKET NO. **890476**  
RALPH J. MARSH  
GARY A. SARGENT  
DAVID B. BOYCE  
TELEPHONE (801) 531-8300  
FAX NUMBER (801) 363-2420

BRIEF

BACKMAN, CLARK & MARSH

ATTORNEYS AT LAW  
800 MCINTYRE BUILDING  
68 SOUTH MAIN  
SALT LAKE CITY, UTAH 84101

OF COUNSEL  
ALMA H. BOYCE

April 3, 1991

**FILED**

**APR 5 1991**

Clerk, Supreme Court, Utah

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

Re: Huston v. Spaulding  
Case No. 89-0476

Dear Mr. Butler:

Pursuant to Rule 24(j), Utah Rules of Appellate Procedure, you are advised of the following pertinent authorities which have come to my attention since the filing of briefs in the above matter:

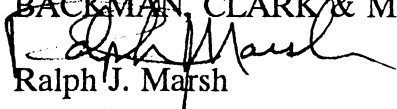
Galloway v. Merrill, 801 P.2d 942 (Utah App. 1990), which may be instructive on the arguments presented in Point III of Appellants' Brief and in Points I and III of Appellants' Reply Brief. This case holds that, in proceedings under Rule 69(f)(3), Utah Rules of Civil Procedure, only expenses "necessary, either to keep the property in the same condition as when purchased or, as here, to avoid civil or criminal liability", may be added to the redemption price. The opinion notes that "one purpose of Rule 69(f) is to preserve the redemption rights of all parties having an interest in property sold to satisfy a judgment" and that "[t]he addition of unnecessary and unconsented expenditures to the redemption price also erodes redemption rights, and is improper under Rule 69(f)(3)."

Warren, Little & Lund, Inc., v. Max J. Kuney Co., 796 P.2d 1263 (Wash. 1990), bears on the issues of offset or recoupment discussed in Point III (pages 25-32) of Appellants' Brief and Point VII of Appellants' Reply Brief. This case holds that a contingent, unliquidated counterclaim may be pleaded as a setoff against a liquidated claim unless the plaintiff can show prejudice.

Thank you for bringing these matters to the court's attention. This case is set for argument on April 9, 1991.

Yours truly,

BACKMAN, CLARK & MARSH

  
Ralph J. Marsh

RJM/rm