

1984

Acculog, Inc. et al v. Keith Peterson : Petition for Rehearing

Utah Supreme Court

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IN THE SUPREME COURT OF THE
STATE OF UTAH

ACCULOG, INC., a State of :
Colorado corporation, :
ROBERT PFISTER and KENTON :
SHAW, co-partners doing :
business under the firm :
name and style of ACCULOG : Case No. 18133
FIELD SERVICES, :
 :
Plaintiff-Appellant, :
 :
vs. :
 :
KEITH PETERSON, dba, :
PETERSON FORD, :
 :
Defendant-Respondent. :

PETITION FOR REHEARING

APPEAL FROM THE JUDGMENT OF THE SEVENTH JUDICIAL
DISTRICT COURT IN AND FOR GRAND COUNTY, HONORABLE
GEORGE E. BALLIF PRESIDING

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MAY 18 1984

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PETITION FOR REHEARING

COME NOW the above Plaintiffs and petition this Court for
a rehearing on the following grounds:

1. The Court committed error in remanding the case for
new trial on the issue of liability because the issue of
Defendant's liability was previously determined, not appealed,
and is not so intermingled with issues remaining to be determined
that fairness to both parties requires a retrial of all issues.


2. The Court committed error in considering the issue of
mitigation of damages and in apparently ruling that the same may
be considered at the next trial because the issue was never plead

or otherwise asserted at the previous trial or otherwise preserved for consideration in this appeal.

3. The court committed error in apparently ruling that failure to have a fire extinguisher may be considered as evidence of failure to mitigate damages.

This petition is supported by the brief annexed hereto.

Dated this 16 day of May, 1984.



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