

1989

## Hilton v. Borthick : Unknown

Utah Supreme Court

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BRIEF

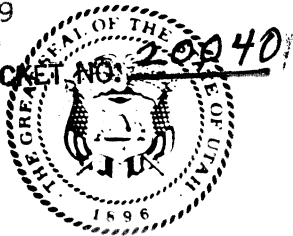
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STATE OF UTAH

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JOSEPH E. TESCH  
CHIEF DEPUTY ATTORNEY GENERAL

1989 20040

July 12, 1989

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

Re: Hilton v. Borthick, Case No. 20040

Dear Mr. Butler:

Pursuant to Rule 24(j) of the Rules of the Utah Supreme Court, I wish to advise the Court that portions of its decision in Condemarin v. University Hospital, Case No. 20602 (Utah, May 1, 1989), Slip Op. at 7-11, 31, 34, 45-47, 55-70, 107 Utah Adv. Rep. 5, 7-9, 18, 20, 25, 29-33, with footnotes (Utah 1989), may be pertinent to the argument made at pages 53-57 of the Brief of Respondents in the above-entitled action.

At that location, the Respondents discuss the **substance** of the Appellants' argument that monetary limits in the Utah Governmental Immunity Act violate equal protection provisions of the United States and Utah Constitutions (Appellants' Brief, pages 25-26).

The Respondents also argue that this issue was not **raised** in the trial court, and should not be considered by the Supreme Court for the first time on appeal (Brief of Respondents, pages 50-52), and if the Court finds that this is so, the Condemarin case would not be of pertinence.

If the Court determines that the merits of the issue should be considered, the Respondents believe the question to be one of sufficient import for the State, other governmental entities, and those who bring actions against governmental

Mr. Geoffrey J. Butler, Clerk  
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entities as to justify additional briefing. Therefore, if the merits of the issue are considered, the Respondents would request leave of the Court under Rule 24(c) of the Rules of the Utah Supreme Court to respond with such additional briefing as the Court deemed appropriate in light of the Condemarin decision.

Very truly yours,

A handwritten signature in cursive script, reading "Stephen J. Sorenson".

STEPHEN J. SORENSON  
Chief, Litigation Division  
Assistant Attorney General

SJS/sh

cc: Joseph Rust, Esq.  
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Clarence J. Frost, Esq.