

1982

Kay J. Larsen v. Judy Larsen (Thomas) : Affidavit of Perkins Counsel for Respondent

Utah Supreme Court

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D. Kendall Perkins; Attorney for Kay J. Larsen;

Phillip A. Harding; Attorney for Judy Larsen (Thomas);

Recommended Citation

Brief of Respondent, *Larsen v. Thomas*, No. 18198 (Utah Supreme Court, 1982).

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IN THE SUPREME COURT
OF THE STATE OF UTAH

KAY J. LARSEN, :
Plaintiff & Respondent, :
vs. : Case No. 18198
JUDY LARSEN (THOMAS), :
Defendant & Appellant. :

AFFADAVIT OF D. KENDALL PERKINS
COUNSEL FOR RESPONDENT

STATE OF UTAH)
:ss
COUNTY OF SALT LAKE)

COMES NOW D. Kendall Perkins, after having been duly sworn, who hereby deposes and says:

1. That he is, and has been, counsel for the above named Plaintiff/Respondent in this matter.

2. That after hearing on the Appellant's petition to modify decree of divorce and at which hearing, Judge Ernest F. Baldwin reaffirmed his initial ruling on the question of support arrearage and contempt, your affiant received a proposed copy of a judgement from Appellant's counsel, along with a letter dated October 12, 1981 in which your affiant was asked to review the judgement and if there was no objection within seven days that said judgement would then be submitted to the court for signature,

a copy of which letter is attached hereto as attachment No. 1.

3. That on October 14, 1981, your affiant sent a letter to Appellant's counsel indicating that the inclusion of prejudgement interest as it was done in said order was questionable and not proper. A copy of which letter is attached hereto as attachment No. 2.

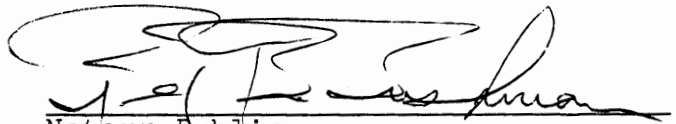
4. That after having received no answer to your affiant's letter of October 14, 1981, your affiant prepared a judgement embodying the terms of the court's award and a copy thereof was sent with the letter dated November 6, 1981, on that date to Appellant's counsel indicating that the judgement would be submitted to Judge Baldwin for his signature if no objection thereto was heard within seven days from the date of the letter. A copy of which letter is attached as attachment No. 3.

5. That as indicated in the record, on the 17th day of November 1981, your affiant submitted the judgement proposed to Judge Baldwin for signature, which judgement was signed on the 17th day of November 1981 and filed with the court on the 18th day of November 1981.

6. That your affiant was unaware that any other judgement had been signed until he was presented a copy thereof attached to various motions submitted by Appellant the day prior to hearing of the Respondent's Motion to Dismiss.


D. Kendall Perkins
Attorney for Respondent

SUBSCRIBED AND SWORN to this 9 day of June, 1982.



Notary Public

Residing in Salt Lake County

Commission Expires:

5-5-85

PHILLIP A. HARDING

ATTORNEY AT LAW
900 NEWHOUSE BUILDING
10 EXCHANGE PLACE
SALT LAKE CITY, UTAH 84111
(801) 363-5650

attachment #1

October 12, 1981

D. Kendall Perkins
Attorney at Law
44 Exchange Place
Salt Lake City, Utah 84111

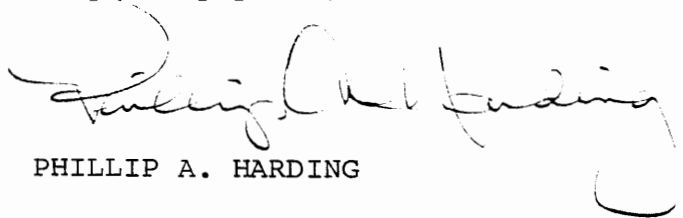
RE: Larsen vs. Thomas, Civil No. D-168246

Dear Ken:

Please find enclosed a copy of the Judgment following the Order to Show Cause In Re Contempt, and the Order following the Order to Show Cause In Re Modification. Please review these documents and let me know if you have any objection as to their form.

If I do not hear from you within seven days concerning these orders, I will presume that they are correct and will submit them to the Court for signature.

Very truly yours,



PHILLIP A. HARDING

PAH/mi

Enclosures

CC/Judy Thomas

Attachment #2

October 14, 1981

MR, Phillip A. Harkling
Attorney at Law
900 Newhouse Building
Salt Lake City, Utah 84111

Re: Larsen vs. Larsen

Dear Phil:

I have reviewed the judgement and order you proposed having the Judge sign. I have just had an opportunity to look at them in that they were mailed to my old address and I did not receive them letter containing the proposed pleadings until the 14th of October. The Order on the Defendant's Order to Show Cause appears to be just as the Court ruled, therefore, I have no problem with that. However, the judgement as proposed does not accurately represent the Judge's ruling in that the Judge did not award any prejudgement interest and in fact none was asked for in the defendant's order to show cause, so the matter was never before the Court and I believe inclusion of any amount for prejudgement interest is improper. The other amounts awarded appear to be correct. However, in the initial paragraph of the judgement there is a typo that might be confusing in that your previous paragraph talks of the defendant having submitted a Memorandum of Points and Authorities and a copy of the case of Seeley vs. Park and then goes into talk about again the defendant having submitted a Counter-Memorandum. I believe that should read the plaintiff had submitted a Counter-Memorandum and perhaps that should be corrected.

If the judgement were prepared containing the correction in the initial paragraph and omitting any prejudgement interest I believe it would then accurately represent the Court's ruling and would have no objection to it being submitted to the Judge for signature.

Thank you for your attention to this matter.

Very truly yours,

D. Kendall Perkins

DKP/jp

attorney #
D. KENDALL PERKINS

Attorney at Law

525 South 3rd East

Salt Lake City, Utah 84111

(801) 521-2552

November 6, 1981

Mr. Phillip A. Harding
Attorney at Law
900 Newhouse Building
Salt Lake City, Utah 84111

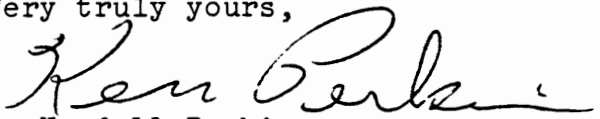
Re: Larsen vs Larsen

Dear Phillip:

I have received no answer to me letter of October 14, 1981 indicating the problems I had with the Judgement as prepared. Therefore, I have taken the liberty of preparing a Judgement containing the changes indicated and I would anticipate submitting this to Judge Baldwin unless you have any objections thereto. Therefore, I will wait for a period of seven days from the date of this letter to hear whether you have any problems with the Judgement as prepared and then I will submit it to the Judge of signiture.

Thank you for your attention to this matter.

Very truly yours,


D. Kendall Perkins

DKP/jp

cc: Judge Ernest F. Balwin, Jr.



Exhibit "B"

Social Services

Scott M. Matheson, Governor, State of Utah
Andrew L. Gallegos, Executive Director

April 14, 1982

Jo Kost, Child Support Officer
Office of the District Attorney
Family Support Division
310 South 3rd Street
Las Vegas, Nevada 89101

Re: Judy Larsen Thomas vs.
Kay John Larsen
Your No. A-95176
Our Acct. No. 80024843R1

Dear Jo:

After receiving the receipts of payments made by Mr. Larsen, I recomputed his arrears to the State of Utah. Ms. Thomas has received assistance from Utah as early as 1967. However, our records of assistance received are not available prior to Sept. 1973 so I started the computation then. Based on this information, he owes Utah \$1400.00.

I am enclosing a copy of the computation. I hope this information helps. I am sending a copy of this letter and the computation to Mr. Larsen's attorney.

Sincerely,

DeAnna Earl
Investigator

DE/eg
T-28
Encl.

CC: D. Kendall Perkins, Attorney at Law
525 So. 300 East
Salt Lake City, Ut. 84111