

2000

Lynn Allan Jenkins v. Hon A. Lynn Payne, David Young Payne, Utah State Bar, Noth Salt Lake City, Davis County, and Uintah County : Brief of Appellee

Utah Court of Appeals

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Melvin C. Wilson; Gerald E. Hess; Gary O. McKean; Kent L. Christiansen; Christiansen, Sonntag; Kenneth R. Wallentine; Attorneys for Appellee.

Lynn A. Jenkins; Appellant, Pro Se.

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**UTAH COURT OF APPEALS**

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LYNN ALLAN JENKINS,  
Plaintiff and Appellant,

vs.

HON. A. LYNN PAYNE, DAVID YOUNG  
PAYNE, UTAH STATE BAR, NORTH SALT  
LAKE CITY, DAVIS COUNTY and  
UINTAH COUNTY,  
Defendants and Appellees.

) **BRIEF OF APPELLEE**  
) **JUDGE A. LYNN PAYNE**

) **Priority No. 15**

) Case No. 20000956 CA  
) (Appeal from the Second Judicial  
) District Court, Davis County)  
) Judge Rodney S. Page  
) Case No. 970700315 CN

---

Appellee's Attorneys:

DAVIS COUNTY, Appellee  
Davis County Attorney  
Melvin C. Wilson  
Gerald E. Hess  
Gary O. McKean  
Davis County Courthouse  
Box 618  
Farmington, Utah 84025

NORTH SALT LAKE CITY, Appellee  
Kent L. Christiansen  
Christiansen & Sonntag  
525 East 100 South, Suite 120  
P.O. Box 11751  
Salt Lake City, Utah 84147

UINTAH COUNTY, Appellee  
Uintah County Attorney  
Kenneth R. Wallentine  
Chief Deputy  
152 East 100 North  
Vernal, Utah 84078

Appellant, pro se:

LYNN A. JENKINS I.  
3 East 2750 South  
Bountiful, Utah 84010

2

**FILED**  
Utah Court of Appeals  
JUN 15 2001  
Paulette Stagg  
Clerk of the Court

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## **JURISDICTION OF APPELLATE COURT**

The Court of Appeals has jurisdiction pursuant to Utah Code Ann. § 78-20-(2)(j).

## **STANDARD OF APPELLATE REVIEW**

The sole issue involving Judge Payne concerns the granting of a motion to dismiss. The motion to dismiss was granted based on judicial immunity and the law of the case doctrine. The Utah Supreme Court has stated that “because the propriety of a motion to dismiss is a question of law, we review for correctness, giving no deference to the decision of the trial court.” Krouse v. Bower, 2001 UT 28, ¶ 2, 20 P.3d 895. The court also stated that “when determining whether a trial court properly granted a motion to dismiss, we accept the factual allegations in the complaint as true and consider them, and reasonable inferences to be drawn from them, in the light most favorable to the non-moving party.” Id.

## **STATEMENT OF THE CASE**

This case involves a civil action which was filed against Judge A. Lynn Payne. Judge Payne is a judge in the Eighth District Court, Vernal, Utah. The civil action was filed in the Second District Court, Davis County, Utah. The civil action sought relief against Judge Payne in his judicial capacity. Although the appellant will claim that the civil complaint sought relief against Judge Payne in his individual capacity, the complaint plainly shows that the appellant was seeking relief against Judge Payne based on rulings made by Judge Payne. Because Judge Payne is absolutely immune from civil law suits, the case against Judge Payne was dismissed.

Another important factor in this case is that the appellant has not adequately complied with the Rules of Appellate Procedure. The reason that this case has gone this far is because appellant has

not put Judge Payne on notice that appellant was contesting the dismissal of Judge Payne from the civil action. It is apparent that appellant is contesting that dismissal. The failure to comply with the Rules of Appellate Procedure should result in a dismissal of the appeal.

### STATEMENT OF FACTS

1. On March 16, 1993 Arvene and Maurice Cooper filed a complaint in the Eighth District Court against M & J Construction, Inc. and Edwin and Afton Higley. The case was assigned number 930800100 and was ultimately assigned to Eighth District Court Judge A. Lynn Payne.

2. Some time in 1995, appellant Lynn Jenkins became an intervenor in that lawsuit. Through the course of the lawsuit, Mr. Jenkins filed motions and otherwise took actions. Judge Payne made decisions and issued orders concerning Mr. Jenkins. A copy of the case history in the Eighth District case is attached as Exhibit "A" in the addendum.

3. Apparently Mr. Jenkins became dissatisfied with certain decisions by Judge Payne. Mr. Jenkins therefore filed a civil complaint against Judge Payne, among others, in the Second District Court, on July 23, 1997. The case was assigned number 970700315. A copy of the complaint filed by Mr. Jenkins is attached as Exhibit "B" in the addendum. That case is the subject of this appeal.

4. On August 25, 1997, appellant A. Lynn Payne filed a motion to dismiss Mr. Jenkins' complaint. Mr. Jenkins filed a motion to strike the motion to dismiss on or about September 4, 1997. The trial court granted the motion to dismiss in a ruling dated September 19, 1997. An order dismissing Judge Payne from the case, as well as findings of fact and conclusions of law, were signed by Judge Rodney Page on October 16, 1997. A copy of all relevant documents related to the motion to dismiss, including the ruling, order, and findings of fact and conclusions of law are attached as

Exhibit "C" in the addendum.

5. After the resolution of other motions involving other defendants, Mr. Jenkins filed a notice of appeal on November 3, 2000. A docketing statement was filed, but Mr. Jenkins did not reference or include a copy of the October 19, 1997 order with the docketing statement. Mr. Jenkins also did not raise any issues concerning Judge Payne's motion to dismiss, such as the applicability of judicial immunity or the law of the case doctrine.

### ARGUMENT

**1. The appeal should be dismissed for failure to comply with Rule 9.**

This is an appeal which would have been, and may still be, appropriate for summary disposition. The appellee is confident that, after the court has had opportunity to review this matter, the court will find that the grounds for review are insubstantial and do not merit further proceedings by this court. The reason that summary disposition has not been previously addressed by appellee is because Mr. Jenkins' notice of appeal and docketing statement did not give any indication that he was appealing or otherwise challenging the October 19, 1997 order and the related dismissal of Judge Payne. However, in his brief, Mr. Jenkins now appears to be raising issues related to Judge Payne. Because Mr. Jenkins has failed to comply with the docketing statement rule, the appeal should be dismissed, at the very least as to Judge A. Lynn Payne. Although appellee recognizes that the docketing statement is for the benefit of the court, (See e.g. Nelson v. Salt Lake City, 919 P.2d 568, 572 (Utah 1996), and not necessarily the appellee, the appellee notes that both the appellee and the court have been affected by Mr. Jenkins' actions. The court has not been adequately informed as to Mr. Jenkins' appeal. Mr. Jenkins has not fully informed the court and has thereby delayed an opportunity for the court to summarily address a matter which does not warrant full appellate review.

**2. The trial court properly dismissed the case based on the judicial immunity of Judge Payne.**

As noted above, the critical inquiry for the court is whether Mr. Jenkins may maintain his civil action against Judge A. Lynn Payne. Appellee asserts that judicial immunity is an absolute bar to Mr. Jenkins' action against Judge Payne. Judicial immunity supported the motion to dismiss and supports a quick resolution of this appeal.

The United States Supreme Court has determined that state court judges are absolutely immune from liability for all performed acts in the judges' judicial capacity. Forrester v. White, 487 U.S. 219, 225-226 (1988). A review of the complaint that Mr. Jenkins filed against Judge Payne reveals that Mr. Jenkins was complaining of acts that occurred in Judge Payne's judicial capacity. In paragraph 12, Mr. Jenkins complained that Judge Payne "ruled" that plaintiff was not entitled to a jury trial. In paragraph 13, Mr. Jenkins complained that Judge Payne "ruled" that the Utah State Bar picnic was more important than Mr. Jenkins' anniversary.

In Christensen v. Ward, 916 F.2d 1462, 1473 (10th Cir. 1990) the court stated, that "judges are absolutely immune from suit on any claim based in the conduct of their office, including allegations that a decision was erroneous, malicious, or in excess of judicial authority." The Christensen court further stated that "immunity attaches if 1) the acts complained of are judicial in nature; and 2) the court had jurisdiction over the subject matter of the case." Id. The acts complained of were judicial in nature, in that the alleged acts were rulings by Judge Payne. Mr. Jenkins has never contested the jurisdiction of the court, and in fact submitted himself to the jurisdiction of the court, and therefore that prong is also satisfied. Mr. Jenkins' only contention has been that his complaint names Judge Payne as an individual, rather than a judge. However, Mr.

Jenkins has never provided any support for this bare allegation, and he continues to fail to do so. Judge Payne has not had any relevant contact with Mr. Jenkins in an individual capacity. The trial court properly dismissed the complaint based on the judicial immunity of the judge.

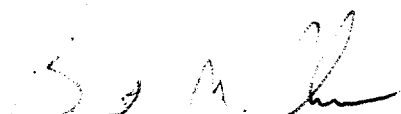
**3.** The law of the case doctrine also supported dismissal.

According to the law of the case doctrine, "one district court judge cannot overrule another district court judge of equal authority." Mascaro v. Davis, 741 P.2d 938, 946 (Utah 1987). Although it is extremely difficult to determine the relief that plaintiff requested in his complaint, it is evident that Mr. Jenkins was asking one district court judge to take action against another district court judge. Mr. Jenkins was asking the Second District Court to review rulings made by Judge Payne and have the Second District Court change those rulings. This request was prohibited by the law of the case doctrine. The Second District Court correctly applied the law of the case doctrine in granting the motion to dismiss.

### CONCLUSION

Because Mr. Jenkins did not comply with Rule 9, the court should consider this matter for summary disposition. The absolute judicial immunity of appellee Judge Payne justifies summary affirmation of the trial court's decision.

DATED this 15<sup>th</sup> day of June, 2001.

  
\_\_\_\_\_  
Brent M. Johnson, Attorney for  
Honorable A. Lynn Payne



MAILING CERTIFICATE


This is to certify that a true a correct copy of the foregoing Appellee's Brief was mailed **first** class, postage prepaid and addressed as follows on this 15<sup>th</sup> day of June, 2001.

Lynn A. Jenkins  
3 East 2750 South  
Bountiful, Utah 84010

Davis County Attorney  
Melvin C. Wilson  
Gerald E. Hess  
Gary O. McKean  
Davis County Courthouse  
Box 618  
Farmington, Utah 84025

North Salt Lake City  
Kent L. Christiansen  
Christiansen & Sonntag  
525 East 100 South, Suite 120  
P.O. Box 11751  
Salt Lake City, Utah 84147

Uintah County Attorney  
Kenneth R. Wallentine  
Chief Deputy  
152 East 100 North  
Vernal, Utah 84078

  
Diana Pollock

## Addendum

## **Exhibit “A”**

EIGHTH DISTRICT COURT - VERNAL  
UINTAH COUNTY, STATE OF UTAH

H ARVENE & MAURICE N COOPER vs. M & J CONSTR INC

CASE NUMBER 930800100 Contracts

---

CURRENT ASSIGNED JUDGE  
A. LYNN PAYNE

PARTIES

Intervenor - LYNN A. JENKINS  
BOUNTIFUL, UT 84078

Plaintiff - H ARVENE & MAURICE N COOPER  
Represented by: JOHN C. BEASLIN

Defendant - M & J CONSTR INC

Defendant - EDWIN M & AFTON HIGLEY  
Represented by: PHILIP R HUGHES

Adoptee - PHILIP R. HUGHES  
Bountiful, UT 84011-1133

Intervenor - LYNN A. JENKINS

Also Known As - EDWIN HIGLEY

COUNT SUMMARY

TOTAL REVENUE	Amount Due:	1,027.75
	Amount Paid:	1,027.75
	Credit:	0.00
	Balance:	0.00

BAIL/CASH BONDS	Posted:	18,642.60
	Applied:	0.00
	Forfeited:	18,242.60
	Balance:	400.00

TRUST TOTALS	Trust Due:	24,287.60
	Amount Paid:	24,317.60
	Credit:	0.00
	Trust Balance Due:	-30.00
	Balance Payable:	3,000.00

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Amount Due: 25.00  
Amount Paid: 25.00  
Amount Credit: 0.00  
Balance: 0.00

REVENUE DETAIL - TYPE: REPORTER FEES

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Amount Paid: 50.00  
Amount Credit: 0.00  
Balance: 0.00

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Amount Paid: 2.00  
Amount Credit: 0.00  
Balance: 0.00

REVENUE DETAIL - TYPE: CERTIFICATION

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Amount Paid: 10.00  
Amount Credit: 0.00  
Balance: 0.00

REVENUE DETAIL - TYPE: CERTIFIED COPIES

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Amount Paid: 12.50  
Amount Credit: 0.00  
Balance: 0.00

REVENUE DETAIL - TYPE: COPY FEE

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Amount Paid: 2.50  
Amount Credit: 0.00  
Balance: 0.00

REVENUE DETAIL - TYPE: COPY FEE

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Amount Paid: 10.50  
Amount Credit: 0.00  
Balance: 0.00

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Amount Paid: 0.25  
Amount Credit: 0.00  
Balance: 0.00

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Amount Credit: 0.00  
Balance: 0.00

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Amount Paid: 2.75  
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Balance: 0.00

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Amount Paid: 1.75  
Amount Credit: 0.00  
Balance: 0.00

REVENUE DETAIL - TYPE: COPY FEE

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Amount Paid: 8.50  
Amount Credit: 0.00  
Balance: 0.00

REVENUE DETAIL - TYPE: COMPLAINT-NO AMT SPC

Amount Paid: 80.00  
Amount Credit: 0.00  
Balance: 0.00

REVENUE DETAIL - TYPE: COMPLAINT-NO AMT SPC

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Amount Credit: 0.00  
Balance: 0.00

REVENUE DETAIL - TYPE: MISCELLANEOUS FEE

Amount Paid: 10.00  
Amount Credit: 0.00  
Balance: 0.00

REVENUE DETAIL - TYPE: COMPLAINT-NO AMT SPC

Amount Paid: 40.00  
Amount Credit: 0.00  
Balance: 0.00

REVENUE DETAIL - TYPE: MISCELLANEOUS FEE

Amount Paid: 15.50  
Amount Credit: 0.00  
Balance: 0.00

REVENUE DETAIL - TYPE: MISCELLANEOUS FEE

Amount Paid: 4.25

Amount Credit:	0.00
Balance:	0.00
REVENUE DETAIL - TYPE: MISCELLANEOUS FEE	
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Amount Credit:	0.00
Balance:	0.00
REVENUE DETAIL - TYPE: MISCELLANEOUS FEE	
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Amount Credit:	0.00
Balance:	0.00
REVENUE DETAIL - TYPE: MISCELLANEOUS FEE	
Amount Paid:	1.50
Amount Credit:	0.00
Balance:	0.00
REVENUE DETAIL - TYPE: MISCELLANEOUS FEE	
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Amount Credit:	0.00
Balance:	0.00
REVENUE DETAIL - TYPE: MISCELLANEOUS FEE	
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Amount Credit:	0.00
Balance:	0.00
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Balance:	0.00
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Balance:	0.00
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Amount Paid:	190.00
Amount Credit:	0.00
Balance:	0.00
REVENUE DETAIL - TYPE: CERTIFICATION	
Amount Due:	6.00
Amount Paid:	6.00
Amount Credit:	0.00
Balance:	0.00

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 Amount Paid: 13.25  
 Amount Credit: 0.00  
 Balance: 0.00

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 Amount Due: 3.50  
 Amount Paid: 3.50  
 Amount Credit: 0.00  
 Balance: 0.00

REVENUE DETAIL - TYPE: COPY FEE  
 Amount Due: 3.00  
 Amount Paid: 3.00  
 Amount Credit: 0.00  
 Balance: 0.00

REVENUE DETAIL - TYPE: COPY FEE  
 Amount Due: 4.50  
 Amount Paid: 4.50  
 Amount Credit: 0.00  
 Balance: 0.00

REVENUE DETAIL - TYPE: COPY FEE  
 Amount Due: 0.50  
 Amount Paid: 0.50  
 Amount Credit: 0.00  
 Balance: 0.00

REVENUE DETAIL - TYPE: COPY FEE  
 Amount Due: 0.25  
 Amount Paid: 0.25  
 Amount Credit: 0.00  
 Balance: 0.00

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 Amount Due: 23.50  
 Amount Paid: 23.50  
 Amount Credit: 0.00  
 Balance: 0.00

REVENUE DETAIL - TYPE: COPY FEE  
 Amount Due: 8.00  
 Amount Paid: 8.00  
 Amount Credit: 0.00  
 Balance: 0.00



REVENUE DETAIL - TYPE: APPEAL  
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Amount Paid: 190.00  
Amount Credit: 0.00  
Balance: 0.00

REVENUE DETAIL - TYPE: COPY FEE  
Amount Due: 1.00  
Amount Paid: 1.00  
Amount Credit: 0.00  
Balance: 0.00

REVENUE DETAIL - TYPE: COPY FEE  
Original Amount Due: 13.50  
Amended Amount Due: 0.00  
Amount Paid: 0.00  
Amount Credit: 0.00  
Balance: 0.00

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Amount Credit: 0.00  
Balance: 0.00

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Amount Credit: 0.00  
Balance: 0.00

REVENUE DETAIL - TYPE: COPY FEE  
Amount Due: 15.75  
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Amount Credit: 0.00  
Balance: 0.00

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Posted By: LYNN A JENKINS  
Posted: 18,242.60  
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Refunded: 18,242.60  
Balance: 0.00

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Posted By: LYNN JENKINS  
Posted: 100.00  
Forfeited: 0.00  
Refunded: 0.00

Balance: 100.00

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Posted: 300.00  
Forfeited: 0.00  
Refunded: 0.00  
Balance: 300.00

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Recipient: DEVON J. MCKEE  
Amount Due: 18,242.60  
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Paid Out: 18,242.60

TRUST DETAIL

Trust Description: Other Trust  
Recipient: H. ARVENE COOPER  
Amount Due: 0.00  
Paid In: 0.00  
Paid Out: 0.00

TRUST DETAIL

Trust Description: Other Trust  
Recipient: LYNN A JENKINS  
Amount Due: 3,000.00  
Paid In: 3,000.00  
Paid Out: 0.00

TRUST DETAIL

Trust Description: Other Trust  
Recipient: H. ARVENE COOPER  
Amount Due: 3,000.00  
Paid In: 3,000.00  
Paid Out: 3,000.00

TRUST DETAIL

Trust Description: Reporter Fees  
Recipient: EIGHTH DISTRICT COURT - VERNAL  
Amount Due: 25.00  
Paid In: 25.00  
Paid Out: 25.00

TRUST DETAIL

Trust Description: Reporter Fees  
Recipient: EIGHTH DISTRICT COURT - VERNAL  
Amount Due: 20.00  
Paid In: 50.00

Paid Out: 50.00

PROCEEDINGS

-16-93	Judge PAYNE assigned.			convert
-16-93	COMPLAINT-NO AMT SPC	Payment Received:	80.00	roenal
-16-93	Fee Account created	Total Due:	80.00	convert
-16-93	Note: Began tracking Return Date		Review on	
	07/14/93			roenal
-16-93	Note: FILED: COMPLAINT			roenal
-16-93	Filed: Complaint			
-22-93	Note: FILED: SUMMONS WITH RETURN OF SERVICE			cj
-29-93	Note: FILED: SUMMONS (AFTON HIGLEY) WITH RETURN OF SERVICE			cj
-29-93	Note: FILED: SUMMONS (EDWIN HIGLEY) WITH RETURN OF SERVICE			cj
-07-93	Note: FILED: NOTICE OF APPEARANCE OF COUNSEL (JOHN MICHAEL COOMBS,			cherylw
-07-93	Note: ATTORNEY FOR DEFENDANTS)			cherylw
-02-93	Note: FILED: WITHDRAWAL OF COUNSEL FROM JOHN MICHAEL COOMBS (ATTORNEY			katep
-02-93	Note: FOR M & J CONSTRUCTION) MR. COOMBS INDICATES MR. LYNN A. JENKINS			katep
-02-93	Note: IS THE LAWFUL ASSIGNEE OF THE DEFENDANTS AND SHOULD BE			katep
-02-93	Note: SUBSTITUTED IN THEIR PLACE AS A SINGLE DEFENDANT.			katep
-10-93	Fee Account created	Total Due:	60.00	convert
-10-93	COMPLAINT-NO AMT SPC	Payment Received:	60.00	cherylw
-10-93	Note: FILED: ANSWER AND COUNTERCLAIM			cj
-10-94	Order to Show Cause scheduled on July 05, 1994 at 10:00 AM in ROOM 2 with Judge ANDERSON.			cherylw
-14-94	Note: FILED: ASSIGNMENT OF INTEREST			cfh
-21-94	Note: FILED: MOTION FOR LEAVE OF COURT TO FILE AMENDED COMPLAINT			cherylw
-21-94	Note: (ORDER SIGNED BY JRA ON 7/19/94)			cherylw
-21-94	Note: FILED: AMENDED COMPLAINT			cherylw
-06-94	Note: FILED: REQUEST FOR HEARING			cherylw
-23-94	Bench Trial scheduled on January 24, 1995 at 09:00 AM in ROOM 2 with Judge ANDERSON.			ch
-10-95	Note: FILED: WITNESS LIST			slw
-13-95	Note: FILED: REPLY TO COUNTERCLAIM			roenal
-17-95	Note: FILED: OBJECTION TO MOTION TO DISMISS AND FOR SUMMARY JUDGMENT			roenal
-17-95	Note: AND FOR DEFAULT			roenal
-18-95	Note: FILED: DESIGNATION OF WITNESSES, MEMORANDUM IN SUPPORT OF MOTION			katep
-18-95	Note: TO DISMISS AND FOR SUMMARY JUDGMENT AND FOR DEFAULT			katep
-18-95	Note: FILED: MOTION TO DISMISS AND FOR SUMMARY JUDGMENT AND FOR			katep
-18-95	Note: DEFAULT			katep
-18-95	Note: FILED: EX PARTE MOTION TO FILE OVERLENGTH MEMORANDUM FOR MOTION			katep
-18-95	Note: TO DISMISS AND FOR SUMMARY JUDGMENT AND FOR DEFAULT			katep

-18-95 Note: RECEIVED: ORDER ALLOWING FILING OF OVERLENGTH MEMORANDUM;  
TO katep

-18-95 Note: JUDGE TO REVIEW katep

-18-95 Note: FILED: DESIGNATION OF ADDITIONAL WITNESSES katep

-19-95 Note: PRE-TRIAL CONFERENCE - Event No. 001 ch

-19-95 Note: Judge: JRA Reporter: TELEPHONIC CONFERENCE ch

-19-95 Note: This matter was settled on: 01/19/95 ch

-19-95 Note: Atty for plaintiff not present Atty for defendant not  
present ch

-19-95 Note: MOTION FOR SUMMARY JUDGMENT WAS FILED TOO LATE TO GIVE  
MR. ch

-19-95 Note: BEASLIN AN OPPORTUNITY TO SEE IT. PARTIES NEED TO BE HERE  
AS ch

-19-95 Note: SCHEDULED AND PRESENT EVIDENCE. ch

-23-95 Note: FILED: DEPOSITION OF EDWIN M. HIGLEY cherylw

-23-95 Bench Trial scheduled on January 23, 1995 at 09:00 AM in ROOM 2  
with Judge ANDERSON. convert

-24-95 Note: TRL HELD. JUDGE HAS UNDER ADVISEMENT cj

-06-95 Note: Other Court control stay began 12/01/94 cfh

-06-95 Note: Other Court control stay ended 02/28/95 cfh

-15-95 Note: FILED: SUPPLEMENTAL MEMORANDUM OF ISSUES, FACTS AND LAW katep

-15-95 Note: FILED: MEMORANDUM OF PLAINTIFF cj

-22-95 Note: Case judgment is Trial Judgment cfh

-22-95 Note: Case disposition is Closed cfh

-22-95 Note: FILED: RULING (SIGNED BY JRA ON 2/22/95) cj

-15-95 Note: FILED: AFFIDAVIT OF LYNN A. JENKINS katep

-15-95 Note: FILED: MOTION FOR NEW TRIAL AND FOR RULINGS; TO  
JUDGE/COPY TO katep

-15-95 Note: CLERK katep

-15-95 Note: FILED: MEMORANDUM IN SUPPORT OF MOTION FOR NEW  
TRIAL/RULINGS katep

-15-95 Note: FILED: NOTORIZED AFFIDAVIT OF LYNN A. JENKINS katep

-24-95 Note: FILED: MEMORANDUM IN OPPOSITION TO DEFENDANTS' MEMORANDUM  
AND jr

-24-95 Note: MOTION FOR NEW TRIAL AND FOR RULINGS jr

-24-95 Note: FILED: RULING AND SUPPLEMENTAL FINDINGS (SIGNED BY JRA  
ON cj

-24-95 Note: 3/24/95) cj

-31-95 Note: RECEIVED: COPY OF UNITED STATES DISTRICT COURT CASE cj

-04-95 Note: JUDGE ANDERSON REVIEWED THE COPY OF THE UNITED STATES  
DISTRICT cj

-04-95 Note: COURT CASE AND REQUESTED IT BE EITHER RETURNED TO MR.  
LYNN cj

-04-95 Note: JENKINS AND IF HE DID NOT WANT IT RETURNED, TO DESTROY ITcj

-04-95 Note: BUT IT HAS NOTHING TO DO WITH THIS CASE. cj

-10-95 Note: FILED: CERTIFICATE OF SERVICE OF AMENDED JUDGMENT AND  
ORDER katep

-10-95 Note: OF THE COURT katep

-10-95 Note: REC'D: AMENDED FINDINGS OF FACT AND CONCLUSIONS OF LAW

AND katep  
 1-10-95 Note: AMENDED JUDGMENT AND ORDER OF THE COURT; TO JUDGE katep  
 1-13-95 Note: FILED: AMENDED FINDINGS OF FACT AND CONCLUSIONS OF LAW  
 (SIGNED cj  
 1-13-95 Note: BY JRA ON 4/12/95) cj  
 1-13-95 Note: FILED: AMENDED JUDGMENT AND ORDER OF THE COURT (SIGNED  
 BY JRA cj  
 1-13-95 Note: ON 4/12/95) cj  
 1-18-95 Note: FILED: COPY OF MOTION TO REMOVE/UNITED STATES DIST  
 CT/CENTRAL DV slw  
 1-18-95 Note: FILED: AFFIDAVIT OF LYNN A. JENKINS slw  
 1-18-95 Note: FILED: SUPPLEMENTAL MOTION MEMORANDUM IN SUPPORT OF  
 MOTION FOR slw  
 1-18-95 Note: NEW TRIAL AND FOR RULINGS slw  
 1-04-95 Note: FILED: MEMORANDUM IN OPPOSITION TO DEFENDANTS'  
 SUPPLEMENTAL cj  
 1-04-95 Note: MOTION MEMORANDUM IN SUPPORT OF MOTION FOR NEW TRIAL AND  
 FOR cj  
 1-04-95 Note: RULINGS cj  
 1-10-95 Note: FILED: AMENDED ORDER AND JUDGMENT OF THE COURT (SIGNED  
 4-12-95) ch  
 1-10-95 Note: FILED: AMENDED FINDINGS OF FACT AND CONCLUSIONS OF LAW ch  
 1-10-95 Note: FILED: RULING (SIGNED 5-9-95) ch  
 1-10-95 Note: FILED: SUPPLEMENTAL MEMORANDUM DECISION cfh  
 1-10-95 Note: FILED: REPOSE TO PLAINTIFF'S OBJECTION TO SUPPLEMENTAL  
 MOTION katep  
 1-10-95 Note: AND MEMORANDUM IN SUPPORT OF MOTION FOR NEW TRIAL AND FOR  
 RULING katep  
 1-15-95 Fee Account created Total Due: 10.00 convert  
 1-15-95 MISCELLANEOUS FEE Payment Received: 10.00 cherylw  
 Note: TWO CERTIFIED COPIES AND 12 XEROX COPIES  
 1-15-95 Note: FILED: FOUR COPIES OF TRANSCRIPT OF JUDGMENTS cj  
 1-15-95 Note: JUDGMENT AMOUNTS ARE AS FOLLOWS: AGAINST M & J  
 CONSTRUCTION cj  
 1-15-95 Note: \$68,452.55 AGAINST M & J CONSTRUCTION AND EDWIN M. HIGLEY cj  
 1-15-95 Note: \$23,800.17 cj  
 1-18-95 Note: FILED: FAX COPY OF REQUEST FOR CLARIFICATION OF RULING  
 FROM katep  
 1-18-95 Note: DEFENDANT'S ATTORNEY katep  
 1-18-95 Note: FILED: FAX COPY OF AFFIDAVIT OF LYNN A. JENKINS katep  
 1-19-95 Note: FILED: ATTACHMENTS TO MOTION PURSUANT TO RULE 63(B) cherylw  
 1-23-95 Note: TELEPHONE CONFERENCE HELD WITH JOHN C. BEASLIN, PHILLIP  
 HUGHES, cj  
 1-23-95 Note: AND JUDGE ANDERSON. SEE MINUTE ENTRY IN FILE. cj  
 1-23-95 Note: FILED: MOTION PURSUANT TO RULE 63(B) katep  
 1-30-95 Note: FILED: AFFIDAVIT OF JOHN C. BEASLIN cj  
 1-08-95 Note: ISSUED: WRIT OF EXECUTION; RETURNED TO JOHN BEASLIN katep  
 1-12-95 Fee Account created Total Due: 40.00 convert  
 1-12-95 COMPLAINT-NO AMT SPC Payment Received: 40.00 katep

-12-95 Note: ISSUED: WRIT OF EXECUTION; RETURNED TO JOHN BEASLIN katep  
-19-95 Note: FILED: RESPONSE TO MOTION PURSUANT TO RULE 63(B) cfh  
-04-95 Note: FILED: MOTION TO INTERVENE (FILED BY LYNN JENKINS) cj  
-07-95 Note: FILED: MEMORANDUM DECISION GRANTING NEW TRIAL AND  
RECUSING cherylw  
-07-95 Note: JUDGE ANDERSON (SIGNED BY JRA ON 8/7/95) cherylw  
-07-95 Note: FILED: SATISFACTION OF JUDGMENT katep  
-09-95 Filed: Copies of: Letter dated 5/11/95 from Philip R. Hughes,  
7/27/95 Order from US Dept of Interior, Default Judgment of  
Chuck Winn, Notice of Sale of Personal Property, and 7/18/95  
letter from McKeachnie and Allred. Stamped for pagination. dawnat  
-22-95 HEARING ON STATUS scheduled on August 22, 1995 at 10:05 AM in  
ROOM 1 with Judge PAYNE. convert  
-22-95 Note: HEARING ON STATUS - Event No. 001 jr  
-22-95 Note: Judge: ALP Reporter: 6-1200 jr  
-22-95 Note: This matter was settled on: 08/22/95 jr  
-22-95 Note: Attorney for plaintiff present Attorney for defendant  
present jr  
-22-95 Note: JOHN BEASLIN, ATTY FOR PLA, PHILIP HUGHES, ATTY FOR DEF,  
AND jr  
-22-95 Note: LYNN JENKINS APPEARED IN JUDGE PAYNE'S CHAMBERS FOR  
STATUS HRG. jr  
-22-95 Note: THIS IS A CASE JUDGE ANDERSON RULED ON AND HAS BEEN  
TRANSFERRED jr  
-22-95 Note: TO JUDGE PAYNE. AFTER DISCUSSION, THE COURT RULED THAT  
THE jr  
-22-95 Note: ORDER VACATING JUDGMENT SHOULD BE SIGNED BY JUDGE  
ANDERSON, AND jr  
-22-95 Note: THE PARTIES SHOULD SUBMIT A LIST OF ALL RULINGS TO BE  
REVISITED jr  
-22-95 Note: BY 9/22/95. ANY RULING NOT OBJECTED TO WILL BECOME THIS  
COURT'S jr  
-22-95 Note: RULING. jr  
-23-95 Fee Account created Total Due: 15.50 convert  
-23-95 MISCELLANEOUS FEE Payment Received: 15.50 roenal  
Note: 62 COPIES  
-31-95 Note: Ended tracking of Return Date roenal  
-20-95 Note: FILED: INTERVENOR'S ANSWER TO PLAINTIFFS' COMPLAINT AND roenal  
-20-95 Note: INTERVENOR'S COUNTERCLAIM roenal  
-20-95 Note: FILED: MOTION TO SUBMIT roenal  
-22-95 Note: FILED: RESPONSE TO REQUEST FOR AGREEMENT OF RULINGS cfh  
-22-95 Note: FILED: PLAINTIFF'S OBJECTION TO PERMITTING LYNN A JENKINS  
TO cfh  
-22-95 Note: INTERVENE AS A INTERVENOR OR AS A PARTY TO THIS ACTION cfh  
-31-95 HEARING DEFAULT scheduled on October 31, 1995 at 02:30 PM in  
ROOM 1 with Judge PAYNE. convert  
-31-95 Note: HEARING - Event No. 002 roenal  
-31-95 Note: Judge: ALP Reporter: MORGAN, RUSSEL roenal  
-31-95 Note: The case was taken under advisement roenal

)-31-95 Note: STA scheduled for 02/05/96 at 1005 A in room 1  
with ALP roenal

)-31-95 Note: Atty for plaintiff not present Atty for defendant not  
present roenal

)-31-95 Note: PHILIP R. HUGHES AND JOHN C. BEASLIN APPEARANCE AS  
COUNSEL FOR roenal

)-31-95 Note: THE PARTIES. LYNN JENKINS APPEARED REPRESENTING HIMSELF.  
THIS roenal

)-31-95 Note: CASE HAS BEEN TRANSFERRED TO JUDGE A. LYNN PAYNE FROM  
JUDGE roenal

)-31-95 Note: JOHN R. ANDERSON. ALL ISSUES WILL BE DISCUSSED AND ALL  
MOTIONS roenal

)-31-95 Note: WILL BE RULED UPON AGAIN. THE COURT DENIES THE MOTION  
FOR roenal

)-31-95 Note: SUMMARY JUDGMENT. DISCOVERY IS NEEDED BY DEF'S AND MR.  
JENKINS. roenal

)-31-95 Note: ALL PARTIES HAVE 90 DAYS TO COMPLETE DISCOVERY & STATUS  
HEARING roenal

)-31-95 Note: IS SET FOR FEBRUARY 5, 1996 AT 10: 05 A.M. roenal

)-08-95 Fee Account created Total Due: 4.25 convert

)-08-95 MISCELLANEOUS FEE Payment Received: 4.25 cherylw

Note: 17 XEROX COPIES

)-13-95 Note: ORDER OF NEW TRIAL TO JUDGE cj

)-15-95 Note: FILED: TRANSCRIPTS ch

)-19-95 Fee Account created Total Due: 13.50 convert

)-19-95 MISCELLANEOUS FEE Payment Received: 13.50 cherylw

Note: 50 XEROX COPIES

)-20-95 Note: THE TRANSCRIPT DOCTED 12/15/95 WAS STAMPED 12/15/97 WHICH  
WAS cj

)-20-95 Note: THE WRONG YEAR. THE DATE STAMP WAS CORRECTED cj

)-29-96 Note: FILED: ANSWER TO AMENDED COMPLAINT, MOTION TO DISMISS AND  
FOR katep

)-29-96 Note: SUMMARY JUDGMENT AND MEMORANDUM IN SUPPORT OF MOTION TO  
DISMISS katep

)-29-96 Note: AND FOR SUMMARY JUDGMENT katep

)-29-96 Note: FILED: MOTION FOR SUMMARY JUDGMENT, DECLARATORY JUDGMENT  
AND slw

)-29-96 Note: DEFAULT JUDGMENT. slw

)-05-96 HEARING ON STATUS scheduled on February 05, 1996 at 10:05 AM in  
ROOM 1 with Judge PAYNE. convert

)-05-96 Note: HEARING - Event No. 003 jr

)-05-96 Note: Judge: ALP Reporter: MORGAN, RUSSEL jr

)-05-96 Note: This matter was settled on: 02/05/96 jr

)-05-96 Note: Attorney for plaintiff present Attorney for defendant  
present jr

)-05-96 Note: COUNSEL FOR THE PARTIES APPEARED AS DID MR. JENKINS. THE  
COURT jr

)-05-96 Note: STATED TO THE COURT THAT IT HAS RULED ON ALL MOTIONS.  
THE COURT jr

?-05-96 Note: NOTED THAT AN ANSWER HAS BEEN FILED JUST RECENTLY AND IS NOT  
jr

?-05-96 Note: TIMELY AND THAT ALSO SOME OF DEF'S MOTIONS HAVE BEEB RULED ON.  
jr

?-05-96 Note: THE COURT INSTRUCTED MR. JENKINS THAT ATTY FEES FOR MR. BEASLIN  
jr

?-05-96 Note: WILL BE AWARDED IF HE DOES NOT LIMIT HIS LITIGATION TO THE  
jr

?-05-96 Note: ISSUES DEALING WITH HIM AS INSTRUCTED BY THE COURT. THE COURT  
jr

?-05-96 Note: ADVISED MR. JENKINS TO GET AN ATTY. THE COURT INSTRUCTED MR.  
jr

?-05-96 Note: BEASLIN TO PREPARE AN ORDER FROM THE LAST HRG HELD. THE COURT  
jr

?-05-96 Note: SETS THIS FOR 1/2 DAY TRIAL FOR 5/23/96 AT 9:00 AM. THE COURT  
jr

?-05-96 Note: COURT REPORTER TO PREPARE A TRANSCRIPT OF THE LAST HRG.  
jr

?-12-96 Fee Account created Total Due: 121.25 convert

?-12-96 MISCELLANEOUS FEE Payment Received: 121.25 katep

Note: COPIES FROM FILE

?-12-96 Note: NOTICE OF HEARING MAILED TO PHILIP R. HUGHES, ATTORNEY, REMAILED  
katep

?-12-96 Note: TO CORRECT ADDRESS OF 940N NORTH 400 EAST, NORTH SALT LAKE  
katep

?-12-96 Note: CITY, UT 84054  
katep

?-14-96 Note: LYNN JENKINS SUBMITTED A DEFAULT AND DEFAULT JUDGMENT TO THE  
cherylw

?-14-96 Note: COURT. THE CLERK CHECKED THE DOCKET TO DETERMINE WHETHER OR  
cherylw

?-14-96 Note: NOT AN ANSWER HAD BEEN FILED. THE CLERK NOTED THAT THERE WAS A  
cherylw

?-14-96 Note: A HEARING HELD ON 2/5/96 AND THAT THERE IS ANOTHER HEARING SET  
cherylw

?-14-96 Note: FOR MAY 23, 1996. THERE WAS ALSO AN ANSWER FILED ON 1/29/96 BUT  
cherylw

?-14-96 Note: THE DOCKET DOES NOT SPECIFY WHO FILED THE ANSWER. AS THE CLERK  
cherylw

?-14-96 Note: WAS LOOKING FOR THE FILE TO DETERMINE WHETHER OR NOT THE DEFAULT  
cherylw

?-14-96 Note: AND DEFAULT JUDGMENT SHOULD ENTER, JUDGE PAYNE RECESSED FROM  
cherylw

?-14-96 Note: COURT AND CAME INTO THE CLERK'S OFFICE. THE CLERK ASKED JUDGE  
cherylw

?-14-96 Note: PAYNE ABOUT THE CASE AND INDICATED MR. JENKINS HAD SUBMITTED  
cherylw

?-14-96 Note: THE DEFAULT AND DEFAULT JUDGMENT TO THE COURT. JUDGE PAYNE  
cherylw

?-14-96 Note: INDICATED THIS MATTER WAS SET FOR HEARING AND ADVISED THE CLERK  
cherylw



-14-96 Note: NOT TO ENTER THE DEFAULT AND DEFAULT HEARING AT THIS TIME. cherylw  
-14-96 Note: MR. JENKINS RETURNED TO THE CLERK'S OFFICE AND THE CLERK cherylw  
-14-96 Note: INFORMED HIM THAT THE DEFAULT AND DEFAULT JUDGMENT HAD BEEN cherylw  
-14-96 Note: RECEIVED IN BY THE COURT BUT WOULD NOT BE ISSUED OR ENTERED AT cherylw  
-14-96 Note: THIS TIME PENDING THE HEARING ON 5/23/96 cherylw  
-14-96 Note: FILED: CERTIFICATE OF SERVICE OF LYNN A. JENKINS FIRST SETS OF cj  
-14-96 Note: REQUESTS FOR ADMISSIONS, INTERROGATORIES AND REQUESTS FOR cj  
-14-96 Note: PRODUCTION OF DOCUMENTS cj  
-14-96 Note: FILED: INTERVENOR'S MOTION FOR COURT'S CLARIFICATION OF BENCH cj  
-14-96 Note: RULINGS OF FEBRUARY 5, 1996. cj  
-14-96 Note: FILED: NOTICE TO SUBMIT MOTION FOR SUMMARY JUDGMENT, cj  
-14-96 Note: DECLARATORY JUDGMENT AND DEFAULT JUDGMENT cj  
-16-96 Note: FILED: TRANSCRIPT OF ORAL ARGUMENTS HELD ON 10/31/95 cherylw  
-22-96 Note: FILED: RELEASE OF ASSIGNMENT OF INTEREST cfh  
-26-96 Fee Account created Total Due: 1.50 convert  
-26-96 MISCELLANEOUS FEE Payment Received: 1.50 katep  
Note: COPIES FROM FILE  
-28-96 Note: RECD. MOTION TO STRIKE ANY AND ALL PLEADINGS FILED BY LYNN B. jas  
-28-96 Note: JENKINS. (FORWARDED TO ALP) jas  
-28-96 Note: FILED: LYNN A. JENKINS', FIRST SETS OF REQUESTS FOR ADMISSIONS, jas  
-28-96 Note: INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS. jas  
-28-96 Note: FILED: ASSIGNMENT OF INTEREST cfh  
-28-96 Note: FILED: CERTIFICATE OF MAILING FOR RELEASE OF ASSIGNMENT OF cfh  
-28-96 Note: INTEREST cfh  
-01-96 MISCELLANEOUS FEE Payment Received: 6.25 katep  
Note: 25 COPIES FROM FILE  
-01-96 Fee Account created Total Due: 6.25 convert  
-01-96 Note: FILED: INTERVENOR'S MOTION FOR MORE DEFINITE STATEMENT OR katep  
-01-96 Note: CLARIFICATION OF H. ARVENE COOPER'S RELEASE OF ASSIGNMENT OF katep  
-01-96 Note: INTEREST OR TO STRIKE katep  
-01-96 Filed: Intervenor's Motion for More Definite Statement or Clarification of H. Arvene Cooper's Release of Assignment of Interest or to Strike (stamped by clerk for Kate P. for pagination purposes) dawnat  
-04-96 Note: FILED: COPY OF REPLY TO COUNTERCLAIM cj  
-05-96 Note: RECEIVED ORDER TO ALP ON 3/5/96 cherylw  
-05-96 Note: FILED: RULING (DATED 3-5-96) jas  
-05-96 Note: FILED: CERTIFICATE OF MAILING ON RELEASE OF ASSIGNMENT OF katep  
-05-96 Note: INTEREST AND ASSIGNMENT OF INTEREST katep  
-05-96 Note: FILED: INTERVENOR'S MEMORANDUM IN SUPPORT OF MOTION TO

STRIKE roenal

-05-96 Note: PLAINTIFFS' MOTION TO STRIKE ANY AND ALL PLEADINGS FILED BY roenal

-05-96 Note: LYNN A JENKINS roenal

-05-96 Note: FILED: INTERVENOR'S MOTION TO STRIKE PLAINTIFFS' MOTION TO roenal

-05-96 Note: STRIKE ANY AND PLEADINGS FILED BY LYNN A JENKINS roenal

-05-96 Note: FILED: INTERVENOR'S REQUEST FOR HEARING roenal

-05-96 Note: FILED: NOTICE TO SUBMIT FOR DECISION roenal

-15-96 Note: FILED: JOINDER OF MOTIONS AND PROPOSED ORDER katep

-15-96 Note: FILED: OBJECTION TO PROPOSED ORDER OF THE COURT katep

-15-96 Note: RECEIVED: ORDER; TO JUDGE katep

-18-96 Note: MR. JENKINS CALLED ABOUT A HEARING DATE, WILL NEED 1 HOUR roenal

-05-96 Note: FILED: MOTION TO STIKE PROPOSED ORDER OF THE COURT BY LYNN A. roenal

-05-96 Note: JENKINS roenal

-05-96 Note: REC'D ORDER OF THE COURT TO JUDGE roenal

-11-96 Fee Account created Total Due: 10.25 convert

-11-96 MISCELLANEOUS FEE Payment Received: 10.25 cherylw

Note: 41 XEROX COPIES

-16-96 Fee Account created Total Due: 50.00 convert

-16-96 COMPLAINT-NO AMT SPC Payment Received: 50.00 katep

-16-96 Note: FILED: INTERVENOR'S MOTION TO STRIKE PLAINTIFF'S MOTION TO katep

-16-96 Note: STRIKE PROPOSED ORDER OF THE COURT BY LYNN A. JENKINS katep

-16-96 Note: FILED: REQUEST FOR JURY TRIAL; COPY TO CLERK TO SET katep

-23-96 Pretrial Conference scheduled on April 23, 1996 at 09:00 AM in ROOM 1 with Judge PAYNE. convert

-23-96 Note: SHARES OF WATER AND ISSUE OF CONTRACT BEING PAID. THE REQUEST roenal

-23-96 Note: FOR A JURY TRIAL IS DENIED. MOTION FOR SUMMARY JUDGMENT IS roenal

-23-96 Note: INAPPROPRIATE AND ANY DECLARATORY JUDGMENT ARE ALSO INAPPROPRIATE roenal

-23-96 Note: AND DENIED. EACH PARTY HAS TWO WEEKS FOR MEMORANDUM AND roenal

-23-96 Note: RESPONES. THE COURT QUESTIONS EACH COUNSEL AND MR. JENKINS roenal

-23-96 Note: ABOUT ALL MOTIONS AND IF ANY QUESTION NEEDS TO BE RULED UPON. roenal

-23-96 Note: EACH PARTY MUST PROVIDE DOCUMENTATION OF EACH TRANSACTION AND roenal

-23-96 Note: CREDIT CLAIMED. ALL DOCUMENTS THAT YOU ARE GOING TO RELAY UPON roenal

-23-96 Note: AT TRIAL. MR. BEASLIN IS TO PREPARE THE PRE-TRIAL ORDER AND roenal

-23-96 Note: HAVE IT SIGNED OFF AS TO FORM. roenal

-23-96 Note: PRE-TRIAL CONFERENCE - Event No. 004 roenal

-23-96 Note: Judge: ALP Reporter: MORGAN, RUSSEL roenal

-23-96 Note: Atty for plaintiff not present Atty for defendant not

	present		roenal
8-23-96	Note: JOHN C. BEASLIN APPEARED AS COUNSEL FOR THE PLAINTIFF COOPER.		roenal
8-23-96	Note: PHILLIP R. HUGHES APPEARED AS COUNSEL FOR THE M & J CONSTR INC.		roenal
8-23-96	Note: AND HIGLEYS. LYNN JENKINS ALSO APPEARED REPRESENTING HIMSELF.		roenal
8-23-96	Note: THIS IS A PRE-TRIAL CONFERENCE. ALL THE ISSUES ARE TO BE		roenal
8-23-96	Note: IDENTIFIED, CONTEMPT CHARGES, SANCTIONS & ALL THE MOTIONS.		roenal
8-24-96	Note: FILED: ORDER FROM UTAH COURT OF APPEALS DENIED THE PETITION		roenal
8-24-96	Note: FILED FROM MR. JENKINS		roenal
8-24-96	Note: FILED: ORDER OF THE COURT SIGNED ALP 4-23-96		roenal
8-03-96	Note: FILED: ORDER OF JURY TRIAL WAS DENIED BY ALP 4-23-96		roenal
8-07-96	Fee Account created Total Due: 1.50		convert
8-07-96	MISCELLANEOUS FEE Payment Received: 1.50		slw
	Note: COPIES		
8-07-96	Note: FILED: INTERVENOR'S MOTION TO STRIKE PLAINTIFFS ANSWER TO		slw
8-07-96	Note: INTERVENOR'S COUNTERCLAIM.		slw
8-07-96	Note: FILED: OBJECTION TO PROPOSED ORDER		slw
8-07-96	Note: FILED: NOTICE OF APPEAL (CERTIFIED COPY OF THE APPEAL WAS		
			cj
8-07-96	Note: MAILED TO UTAH SUPREME COURT ON 5/7/96)		cj
8-08-96	Note: FIELD: MEMORANDUM CONCERNING ASSIGNMENT OF RIGHTS AND REAL		
			katep
8-08-96	Note: PARTIES IN INTEREST AND MOTION PURSUANT TO RULE 25		katep
8-10-96	Note: FILED: NOTICE FROM SUPREME COURT INDICATING NOTICE OF APPEAL		
			katep
8-10-96	Note: WAS RECEIVED ON MAY 9		katep
8-13-96	Note: RECD: ORDER OF THE COURT (FORWARDED TO ALP)		jas
8-15-96	Note: FILED: TRANSCRIPT OF PRETRIAL CONFERENCE		cfh
8-20-96	Note: FILED: ORDER OF THE COURT (SIGNED BY ALP 5-20-96)		jas
8-23-96	Note: FILED: REPLY TO MEMORANDUM CONCERNING ASSIGNMENT OF RIGHTS AND		
			cfh
8-23-96	Note: REAL PARTIES IN INTEREST AND MOTION PURSUANCE TO RULE 25		cfh
8-06-96	Note: FILED: RESPONSE TO REPLY TO MEMORANDUM CONCERNING ASSIGNMENT OF		
			katep
8-06-96	Note: RIGHTS AND REAL PARTIES IN INTEREST & MOTION PURSUANT TO RULE 25		
			katep
8-11-96	Note: FILED: ANSWER TO LYNN A. JENKINS CLAIM		jas
8-29-96	Note: FILED: AFFIDAVIT OF JOHN C. BEASLIN		cj
8-29-96	Note: FILED: MOTION THAT THE COURT FIND CONTEMPT FOR NON-COMPLIANCE		
			cj
8-29-96	Note: WITH COURT'S ORDER		cj
8-13-96	Note: FILED: AFFIDAVIT OF LYNN A. JENKINS		katep
8-20-96	Note: HEARING ON STATUS - Event No. 004		jas
8-20-96	Note: Judge: ALP Reporter: TAPE 473 COUNT 6100		jas

}-20-96 Note: This matter was continued without date. jas  
}-20-96 Note: Attorney for plaintiff present Atty for defendant not present jas  
}-20-96 Note: PLAINTIFF WAS PRESENT IN COURT WITH HIS ATTORNEY, JOHN BEASLIN, jas  
}-20-96 Note: REGARDING STATUS HRG THAT WAS SET IN COURT ON APRIL 23, 1996. jas  
}-20-96 Note: COURT TOOK UNDER ADVISEMENT THE ISSUE OF CONTEMPT FOR FAILURE TO jas  
}-20-96 Note: APPEAR ON ALL OPPOSING PARTIES. jas  
)-04-96 Note: FILED: MOTION TO SUBSTITUTE REAL PARTY IN INTEREST cfh  
)-04-96 Note: FILED: REQUEST FOR STATUS HEARING AND MOTION TO SET FOR TRIAL cfh  
)-04-96 Note: REC: ORDER OF THE COURT TO ALP cfh  
)-26-96 Pretrial Conference scheduled on October 29, 1996 at 11:00 AM in ROOM 1 with Judge PAYNE. convert  
)-29-96 Minute Entry - HEARING roenal  
Judge: A. LYNN PAYNE  
Clerk: ROENA H. LICHT  
Reporter: RUSSELL MORGAN  
PRESENT

Plaintiff(s): NELDON COOPER  
Defendant(s): PHILIP R. HUGHES  
Plaintiff's Attorney(s): JOHN C. BEASLIN  
Other Parties: LYNN A. JENKINS

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HEARING

TAPE: TIME: 2:33 PM COUNT:  
On record

THE PLA IS REQUESTING SANCTIONS BECAUSE THE DEF'S DIDN'T APPEAR FOR THE HEARING ON AUGUST 20, 1996. A DISCUSSIONS WERE HAD ALL PARTIES PRESENT AND THE COURT. ISSUES TO BE TRIED, SCHEDULING FOR A TRIAL, SHARE OF WATER. WHAT INTEREST DOES NELDON COOPER

TIME: 2:34 PM THIS CASE. HAS THE CONTRACT BEEN FULLY PAID. NEED DOCUMENTS TO PROOF THIS. PROVIDE PAYMENT RECORDS. NELDON COOPER CAN BE DEPOSED. DISCOVERY IS DISCUSSED, MR JENKINS IS REQUESTING MORE TIME THAN 90 DAYS. MR. JENKINS IS STANDING IN FOR THE DEF'S

TIME: 2:42 PM HIGLEYS. ALL MOTION ARE TO BE WITHIN TEN DAYS FROM TODAY DATE. DISCOVERY CUT OFF IS JANUARY 31, 1997 AND MARCH 29, 1997. THE TRIAL IS SET FOR APRIL 7,8,9, 1997. MR. HUGHES WILL PREPARE SCHEDULING ORDER.

l-13-96 Filed: Notice to Submit, Motion for Partial Summary Judgment, Supplemental Memorandum Concerning The Assignment to Neldon Cooper, , Memorandum in Support of Motion for Partial Summary

Judgment from defendant's attorney katep

-13-96 Filed: Affidavit of Lynn A. Jenkins, Intervenor's Notice of Joinder and Request for Hearing katep

-13-96 Filed: Notice to Submit katep

-13-96 Filed: Notice to Submit katep

-13-96 Filed: Notice to Submit katep

-13-96 Filed: Notice to Submit katep

-13-96 Filed: all documents filed on November 13 to Judge for review katep

-20-96 Notice - NOTICE for Case 930800100 ID 590 jills

Bench Trial.

    Date: 04/07/1997

    Time: 09:00 a.m.

    Location: ROOM 1

                    UINTAH COUNTY BUILDING

                    147 EAST MAIN STREET

                    VERNAL, UT 84078

    before Judge A. LYNN PAYNE

    Anticipated length of Bench Trial is 3 days.

-20-96 Bench Trial scheduled on April 07, 1997 at 09:00 AM in ROOM 1 with Judge PAYNE. jills

-20-96 Bench Trial scheduled on April 08, 1997 at 09:00 AM in ROOM 1 with Judge PAYNE. jills

-20-96 Bench Trial scheduled on April 09, 1997 at 09:00 AM in ROOM 1 with Judge PAYNE. jills

?-03-96 Filed: Reply to Motion for Partial Summary Judgment jills

?-03-96 Filed: Memorandum in Opposition to Defendants' Memorandum in Opposition of Motion for Partial Summary Judgment. jills

?-04-96 Filed: Notice to Submit; to Judge katep

?-06-96 Filed: Remittitur from Supreme Court to Judge for review katep

?-12-96 Filed: Transcript of Pre-Trial Conference candace

?-16-96 Filed: Response to Reply to Motion for Partial Summary Judgment katep

?-17-96 Filed: Notice of Joinder katep

?-20-96 Filed: Motion For Leave To Amend Counterclaim, To Add Parties To Continue Time For Discovery, For Consolidation of Cases, and Continue Trial Date roenal

?-20-96 Filed: Recap of Valuation on Coopers' and Archers Uintah Farms Exhibit confidential roenal

?-20-96 Filed: Notice of Interest roenal

?-30-96 Filed: Motion to Dismiss Intervenor's Motion for Leave to Amend Counterclaim, to Add Parties, to Continue Time for Discovery, For Consolidation of Cases, and to Continue Trial Date. jills

?-30-96 Filed: Motion to Notice of Joinder jills

?-31-96 Filed order: Ruling and Order roenal

                    Judge apayne

                    Signed December 31, 1996

1-03-97 Filed: Notice on Intervenor's Second Set of Request for Admissions, Interrogatories, and Request for Production of Documents cherylw

1-03-97 Filed: Certificate of Service of Intervenor's Second Set of

Requests for Admissions, Interrogatories, and Request for  
Production of Documents cherylw  
 1-03-97 Filed: Lynn A. Jenkins Second Set of Requests for Admissions,  
Interrogatories, and Request for Production of Documents cherylw  
 1-17-97 Review Hearing scheduled on February 04, 1997 at 10:20 AM in  
ROOM 1 with Judge PAYNE. roenal  
 1-21-97 Filed: Objection to Notice of Intervenor's Second Set of  
Request for Admissions, Interrogatories and Requests for  
Production of Documents and Request for Hearing. jills  
 1-21-97 Filed: Motion to Clear Title to Real Property jills  
 1-24-97 Filed: Memorandum in Opposition to Lynn A. Jenkins' Motion for  
Leave to Amend Counterclaim, to Add Parties, to Continue Time  
for Discovery, for Consolidation of Cases, and to Continue  
Trial Date shanaw  
 1-28-97 Review Hearing Cancelled scheduled for: 2/4/97 roenal  
 Reason: Def.'s Attorney requested continuance to later date  
 1-28-97 Note: LYNN A. JENKINS requested that the review hearing that he  
has requested be cancelled roenal  
 1-03-97 Filed: Response to Ruling and Order of December 31, 1996 katep  
 1-03-97 Note: Received: Scheduling Order (To ALP) katep  
 1-03-97 Note: Received: Order Joining the Estate of Maurice N. Cooper katep  
 1-03-97 Filed: Notice of Joinder and Notice of Payments cherylw  
 1-03-97 Filed: Supplement to Response to Ruling and Order of December  
31, 1996 cherylw  
 1-03-97 Filed: Joint Motion for Transcript of Hearing of August 22,  
1995 cherylw  
 1-03-97 Filed: Motion to Extend Discovery and Request for Hearing cherylw  
 1-03-97 Filed: Request for Ruling on MOTion to Add Additional Parties  
and for Stay of Trial cherylw  
 1-03-97 Filed: Gray and white book with copies of cases and exhibits cherylw  
 1-13-97 Filed: Ruling (signed by ALP 2/13/1997 katep  
 1-19-97 Filed: MOTION TO SUBMIT AND MOTION FOR RULING jor  
 1-25-97 Filed: RULING (2/25/97) jor  
 1-27-97 Initial Appearance scheduled on February 28, 1997 at 09:00 AM  
in ROOM 1 with Judge PAYNE. roenal  
 1-27-97 Minute Entry - Status Conference roenal  
 Judge: A. LYNN PAYNE  
 Clerk: ROENA LICHT  
 Reporter: RUSSELL MORGAN  
 TELEPHONE CONFERENCE  
 PRESENT

Defendant(s): PHILIP R. HUGHES  
 Plaintiff's Attorney(s): JOHN C. BEASLIN  
 Other Parties: LYNN A. JENKINS

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HEARING

TIME: 2:13 PM Telephone Conference. Discussion about the bad weather and requesting a continuance. The Court Finds: That this matter is continued to March 10, 1997 at 8: a.m.

2-27-97 Status Conference scheduled on March 10, 1997 at 08:00 AM in ROOM 1 with Judge PAYNE. roenal

3-03-97 Filed: Ex-parte Order on Motion to Remove, Dated February 14, 1995 (copy) katep

3-03-97 Note: Rec: Order of Stay of Proceedings, Order of Stay of Proceedings, Order of Stay of Proceedings, Order of Stay of Proceedings, Order of Stay of Proceedings, Order of Stay of Proceedings, Order of Stay of Proceedings, Order of Stay of Proceedings katep

3-03-97 Filed return: Certificate of Service katep  
 Party Served: Donald Gilbert, atty for Pla  
 Service Type: Mail

3-03-97 Note: All orders received on this date given to Judge katep

3-03-97 Filed: Motion for Stay of Proceedings (Order of Stay of Proceedings to Judge) katep

3-10-97 Filed: Objection to Motion for Stay cherylw

3-12-97 Filed order: ORDER FOR TRANSCRIPT jor  
 Judge apayne  
 Signed March 10, 1997

3-12-97 Filed: Amended Witness List shanaw

3-14-97 Filed: Request For Transcript roenal

3-14-97 Note: rec'd order to Judge roenal

3-17-97 Filed order: REQUESET FOR TRANSCRIPT jor  
 Judge apayne  
 Signed March 17, 1997

3-20-97 Filed: TRANSCRIPT OF HEARING OF AUGUST 22, 1995 jor

3-25-97 Filed: SECOND AMENDED WITNESS LIST jor

3-27-97 Filed return: Subpoena with return of service candace  
 Party Served: Jerry Caldwell  
 Service Type: Personal  
 Service Date: March 25, 1997

3-27-97 Filed return: Subpoena with return of service candace  
 Party Served: Rodney Aycok  
 Service Type: Personal  
 Service Date: March 25, 1997

3-27-97 Filed return: Subpoena with return of service candace  
 Party Served: Gayle McKeachnie  
 Service Type: Personal  
 Service Date: March 25, 1997

3-28-97 Filed: RECEIPT FOR EXHIBITS GIVEN TO JOHN BEASLIN (PLA'S EXHIBITS) jor

3-28-97 Filed: CERTIFICATE OF SERVICE jor

4-03-97 Filed: Joint Designation of Witnesses shanaw

4-07-97 Minute Entry - Minutes for Bench Trial Commissioner:

-08-97 Minute Entry - Minutes for Bench Trial

dawnat

Judge: A  
Clerk: DAWNA TEEGUARDEN  
Reporter: RUSSELL MORGAN  
PRESENT

Other Parties: LYNN A. JENKINS  
JOHN C. BEASLIN  
NELDON COOPER

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TRIAL

This matter is before the Court for the second day of trial. Mr. Jenkins is requesting that hard copies of faxed Exhibits 88 & 89 be substituted for the copies previously submitted; they are substituted and remarked. Ed Higley is called to testify by ATP; he is sworn and testifies on direct; on cross by Mr. Jenkins and on cross by Mr. Hughes. Exhibits 100, 10, 11, 12, 14, 13, 101 and 16 are received. Exhibit 102 is introduced but not received. The Court addresses the issue of the Motion to Quash which was filed by Clark Allred. Mr. Jenkins and Mr. Hughes object to the motion and tie their objections to Exhibits 94, 95 and 99. The Court rules that re 94, 95 and 99, Mr. Jenkins was aware of Mr. Allred's connection and that Mr. Allred was listed as a potential witness and was not subpoenaed. Regarding Mr. Hughes, the Court will require Mr. Allred to appear, but he is to be questioned regarding items C and D of Schedule A regarding the \$3,000 mentioned in said Schedule A. Mr. Beaslin calls Nadine Boudrero who is sworn and testifies on direct and redirect; and on cross by Mr. Hughes. Mr. Jenkins attempts to cross, but after hearing Mr. Beaslin's objections to this taking place, the Court sustains the objection and Mr. Jenkins will not be allowed to cross examine. At this time, Mr. Jenkins moves to have Ms. Boudrero's testimony stricken. The Court denies his motion. Rodney Aycock, CPA, is called by Mr. Beaslin. He is sworn and testifies on direct and on cross by Mr. Hughes. Exhibit 104 is introduced and as Mr. Aycock states an error has been made on it, he amends it by interlineation over the objections of Mr. Jenkins. The Court receives #104. Exhibit 76 (from previous trial) is reintroduced and the full and complete document is substituted. #90 is reintroduced and received. Mr. Aycock is sent out to do a corrected accounting. Clark Allred is called by Mr. Hughes. He is sworn and testifies on direct exam and is questioned by Mr. Jenkins. Regarding Exhibit 105, Mr. Allred claims attorney client privilege and defers this issue to Mr. Beaslin who is the current representative of the estate of the Coopers. Mr. Beaslin waives his privilege as to this document only



(#105). Direct exam continues. Terry Caldwell, CPA is called by Mr. Beaslin and testifies on direct and cross examination by Mr. Jenkins. Mr. Caldwell is excused for the evening and is to meet with Mr.'s Beaslin, Jenkins and Hughes at 8:00 a.m. tomorrow before reappearing for Court. Mr. Aycock returns and

still under oath, testifies on cross by Mr. Hughes and then by Mr. Jenkins. Exhibits 105 and 107 are received. Exhibits 106, 108, 109, 110, 111, 112, and 113 are introduced.

1-08-97 Filed: Unsigned Document "Order Joining the Estate of Maurice N. Cooper" dawnat  
 1-08-97 Filed: Unsigned Document "Order of Stay Proceedings" dawnat  
 1-08-97 Filed: Unsigned Document "Scheduling Order" dawnat  
 1-09-97 Minute Entry - Minutes for CN dawnat  
 Judge: A. LYNN PAYNE  
 Clerk: DAWNA TEEGUARDEN  
 Reporter: RUSSELL MORGAN  
 PRESENT

Plaintiff's Attorney(s): JOHN C. BEASLIN  
 Other Parties: LYNN A. JENKINS  
 NELDON COOPER

TRIAL

This matter is before the Court for trial on day three. Mr. Terry Caldwell is recalled and resumes cross examination (still under oath) by Mr. Jenkins and then by Mr. Hughes. Mr. Beaslin redirects testimony. The amounts on Exhibit #106 are changed by interlineation with all parties noting the change. Exhibits 114, 115, 116, 117, 118, 119 and 120 are introduced. #118 is received on the Court's own motion. Mr. Caldwell is excused at this time.

Mr. Higley, still under oath, resumes on cross examination by Mr. Jenkins. The parties stipulate at this time to the payments which were made in Exhibit 13. Mr. Higley is excused until the next date of trial. Exhibits 114-129 are introduced. #114, 115

and 116 are taken under advisement; #117 is withdrawn; #126 and 127 are marked only and not offered nor received. Regarding Mr. Jenkins' motion to admit all previous admissions, the Court denies the motion. This matter is continued to July 14, 15 and 16.

4-10-97 APPEAL	Payment Received:	190.00	dawnat
Note: Code Description: APPEAL			
4-10-97 Fee Account created	Total Due:	190.00	dawnat
4-10-97 Bond Posted	Payment Received:	300.00	dawnat
4-10-97 Bond Account created	Total Due:	300.00	dawnat
4-10-97 CERTIFICATION	Payment Received:	6.00	dawnat
4-10-97 COPY FEE	Payment Received:	13.25	dawnat

-10-97 Fee Account created Total Due: 6.00 dawnat  
-10-97 Fee Account created Total Due: 13.25 dawnat  
-11-97 Filed: Plalintiff's Answers to Lynn A. Jenkins' Second Set of Requests for Admissions, Interrogatories and Requests for Production of Documents. dawnat  
H ARVENE & MAURICE N COOPER  
March 27, 1997  
-15-97 Filed: Notice of Appeal shanaw  
-15-97 Filed: Designation of Record on Appeal shanaw  
-15-97 Filed: Cost Bond for Appeal shanaw  
-17-97 COPY FEE Payment Received: 3.50 shanaw  
-17-97 Fee Account created Total Due: 3.50 shanaw  
-18-97 Tracking started for Status Conference. Review date May 18, 1997.  
Tracking ended for Status Conference.  
-18-97 Note: Clerk placed the exhibits in this matter in storage behind JRA's room dawnat  
-23-97 Filed: Letter from Supreme Court stating their case number is 970186 and should be indicated on future filings. shanaw  
-23-97 Filed: Transcript of Status Conference candace  
-23-97 Filed: Transcript of Bench Trial, Volume 1 candace  
-23-97 Filed: Transcript of Bench Trial, Volume II candace  
-23-97 Filed: Transcript of Bench Trial, Volume III candace  
-26-97 Notice - NOTICE for Case 930800100 ID 10577 candace  
Bench Trial is scheduled.  
Date: 7/14/97  
Time: 09:00 a.m.  
Location: ROOM 1  
UINTAH COUNTY BUILDING  
147 EAST MAIN STREET  
VERNAL, UT 84078  
before Judge A. LYNN PAYNE  
  
Bench Trial is scheduled.  
Date: 7/15/97  
Time: 09:00 a.m.  
Location: ROOM 1  
UINTAH COUNTY BUILDING  
147 EAST MAIN STREET  
VERNAL, UT 84078  
before Judge A. LYNN PAYNE  
  
Bench Trial is scheduled.  
Date: 7/16/97  
Time: 09:00 a.m.  
Location: ROOM 1  
UINTAH COUNTY BUILDING  
147 EAST MAIN STREET  
VERNAL, UT 84078

before Judge A. LYNN PAYNE  
5-26-97 Bench Trial scheduled on July 14, 1997 at 09:00 AM in ROOM 1  
with Judge PAYNE. candace  
5-26-97 Bench Trial scheduled on July 15, 1997 at 09:00 AM in ROOM 1  
with Judge PAYNE. candace  
5-26-97 Bench Trial scheduled on July 16, 1997 at 09:00 AM in ROOM 1  
with Judge PAYNE. candace  
1-11-97 Filed: Objection to Subpoena from Alan Cooper shanaw  
1-11-97 Filed: Excerpt of Bench Trial Edwin Higley's Testimony Only jor  
1-14-97 Filed: Motion to Quash or Modify Subpoena candace  
1-14-97 Filed: Memorandum of Facts, Points and Authorities in Support  
of Motion to Quash Subpoena candace  
1-14-97 Minute Entry - Minutes for Bench Trial jor  
Judge: A. LYNN PAYNE  
Clerk: jor  
Reporter: RUSSELL MORGAN  
PRESENT

Plaintiff(s): MAURICE COOPER  
Defendant(s): EDWIN M & AFTON HIGLEY  
PHILIP R. HUGHES  
Plaintiff's Attorney(s): JOHN C. BEASLIN  
Other Parties: LYNN A. JENKINS  
Audio

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TRIAL

TIME: 9:05 On record

The parties have subpoenaed several witnesses who are present today, and don't need to be. The Court will dismiss them and asks them to return on 7/15/97 at 1:30. Defense attorneys have also subpoenaed Judge Steele. He will appear at 8:00 A.M. on 7/15/97 to accomodate his court schedule. Clark Allred appeared for Kenneth Cooper and the question of proper service on him. This is also continued to 8:00 A.M. on 7/15/97.

Edwin Higley is sworn and called to stand by Mr. Jenkins. Exhibits 130, 131, 132, 134, were offered and received. Ex 133 was offered and refused.

TIME: 4:50 Court adjourned at 12:50 and resumed session at 2:05. Mr. Jenkins continued his questioning of Mr. Higley. Mr. Hughes and Beaslin questioned the witness and Court adjourned for the evening at 4:50 P.M.

Court resumed session at 8:00 A.M. on 7/15/97. Judge Larry Steele was sworn and called to the stand by Mr. Jenkins. Exhibits 136,137,138,139,140,141 were offered and refused. Ex 136 was offered and rec'd by Pla. Mr. Hughes offered Ex 142 & 143, the

TIME: 4:21 PM Court received them. Judge Steele was excused.

Clark Allred appeared with Kenneth Cooper and Mr. Cooper testified as to the service he received for this trial. Mr. Jenkins stipulates that Mr. Cooper was not served properly. Mr. Allred asks for fees from

TIME: 4:23 PM Jenkins because of his violating rule 11. The Court orders Mr. Jenkins to pay for the time expended by Mr. Allred and lost wages of Mr. Kenneth Cooper. Mr. Allred is to prepare an affidavit for fees and Jenkins has 10 days in which to respond.

TIME: 4:24 PM Brent Cooper is sworn and called by Mr. Beaslin. Mr. Hughes offered cross examination. Court adjourns at 12:20 for lunch.

TIME: 4:26 PM Court resumed session at 1:50. Jenkins continues questioning of Brent Cooper.

TIME: 4:20 PM Court received them.

Court resumed session at 8:30. The Court received exhibits 111,116, 113,114,115,116. Alan Cooper was sworn and called to the stand by Mr. Jenkins. Mr. Jenkins offered exhibit 174, the Court refused the exhibit and Mr. Jenkins objects to the objection.

Mr. Hughes and Mr. Beaslin questioned the witness. Brent Cooper was recalled to the stand by Mr. Jenkins and Hughes and Beaslin also offered questions to witness.

Exhibit 178 (bankruptcy papers) was shown to witness and questioned regarding his bankruptcy. The Court cautioned the witness that he may speak with an attorney before proceeding if he so desires. Witness was asked to leave the courtroom in order to question Mr. Jenkins as to where he's going with the witness. Mr. Cooper was called back to the stand. The Court sustains Mr. Beaslin's objection to the questioning of Mr. Cooper's bankruptcy.

The Court advised the parties that the question of attorneys fees will be taken under advisement and the parties may argue that issue after the winning party is determined. The Court and counsel agreed on 8/22/97 at 8:00 A.M. to continue the trial.

-17-97 Bench Trial scheduled on August 22, 1997 at 08:00 AM in ROOM 1 with Judge PAYNE.

-22-97 Filed: Affidavit

-22-97 Filed: Rcvd: Order (to ALP for signature)

-29-97 Filed order: Order on 7/14/97 proceedings

Judge apayne

Signed July 28, 1997

-12-97 Fee Account created Total Due: 3.00

-12-97 COPY FEE Payment Received: 3.00

-22-97 Minute Entry - Minutes for Bench Trial

Judge: A. LYNN PAYNE

Clerk: jor

Reporter: RUSSELL MORGAN

PRESENT

jor  
dawnat  
dawnat  
dawnat  
candace  
candace  
jor

Defendant(s): EDWIN M & AFTON HIGLEY  
PHILIP R. HUGHES

Plaintiff's Attorney(s): JOHN C. BEASLIN  
Other Parties: LYNN A. JENKINS

TRIAL

On record

Mr. Beaslin states to the Court that he has exhibits 184 & 185 that need to be introduced. The Court received the exhibits as the parties have stipulated to them before. Mr. Jenkins wants the exclusionary rule lifted, Mr. Beaslin objects. The exclusionary rule is still invoked.

Neldon Cooper was sworn and called to the stand by Mr. Jenkins. Mr. Beaslin and Mr. Hughes questioned the witness. Exhibits 186 and 187 were marked by the clerk. Later in the afternoon the Court discussed with the parties that the trial obviously wasn't going to be finished today and talks about other dates. Mr. Jenkins states to the Court that two days will be ample time to finish the trial. The Court states to the parties that he will hold the parties to what they have said about two days being enough time to finish this trial. Dec. 15, & 16, 1997 at 8:00 A.M. will be set for conclusion of the trial.

Iola Moore, Secretary of Ouray Park Irrigation Co., was sworn and questioned by all the attorneys and Mr. Jenkins.

Court adjourned at 4:00 P.M. and again the Court admonished the parties that they will be held to the two day conclusion of the trial.

12-27-97	Filed: Remittitur (from Supreme Court) (to ALP)		shanaw
12-19-97	Filed: Transcript of Bench Trial		cherylw
12-03-97	Filed: Transcript of 7/14/97 Bench Trial; Volumes IV, V, VI and VII		dawnat
12-04-97	Filed: Motion to Pulbish Entire Testimony of H. Arvene Cooper		dawnat
12-04-97	Filed: Affidavit of Edwin Higley		dawnat
12-04-97	Filed: Memorandum in Support of Motion to Pulbish Entire Testimony of H. Arvene Cooper		dawnat
12-04-97	Filed: Affidavit of M. Bradley Folsom, CPA		dawnat
12-12-97	Bench Trial scheduled on December 15, 1997 at 08:00 AM in ROOM 1 with Judge PAYNE.		shanaw
12-15-97	Fee Account created	Total Due: 4.50	shanaw
12-15-97	COPY FEE	Payment Received: 4.50	shanaw
12-15-97	Minute Entry - Minutes for Bench Trial		jor
	Judge: A. LYNN PAYNE		
	Clerk: jor		
	Reporter: RUSSELL MORGAN		
	PRESENT		

Plaintiff's Attorney(s): JOHN C. BEASLIN  
Defendant's Attorney(s): PHILLIP HUGHES

Other Parties: LYNN A. JENKINS

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HEARING

This matter is before the Court with Lynn Jenkins acting pro se, and Neldon Cooper is present at Plaintiff's table. Mr. Hughes states to the Court that a transcript of Arvene Cooper's testimony is not in the file and Defense offers exhibit 188. Exhibit 188 if received.

Mr. Jenkins recalls Neldon Cooper, who was sworn again. Mr. Beaslin and Mr. Hughes also question the witness. Mr. Beaslin offers voir dire on questions of the Warranty Deed Ex. 189. Ed Higley is sworn and questioned by Mr. Jenkins and cross examined by Mr. Beaslin.

In the afternoon session Mr. Hughes questions Mr. Higley. Exhibits 189, 190, are offered and rec'd. Exhibit 190 is offered and refused. Mr. Jenkins offers exhibits 190 refused, 191 offered & recd, 192 offered & refused as were 193, 194, 195, 196, 197

198, 199, 200, 201, 202, 203 was offered and recd by Mr. Beaslin.

The Court questions Mr. Higley about some of his testimony and excused.

Gayle McKeachnie was sworn and called by Mr. Jenkins. Mr. Hughes and Mr. Beaslin also offered questions to Mr. McKeachnie.

The Court recesses at 5:15 and questions the parties as to their opinion on the length of the remaining trial.

Court resumes session at 9:00 am on 12/16/97.

On tape 622, count 1.

Mr. Jenkins makes Motion to the Court as to admitting the transcript of the trial in Judge Anderson's Court. The Court denies the Motion. Exhibits 206, 207, 208 were offered and received.

Lynn Jenkins is sworn, takes the stand, and questioned by himself. Mr. Hughes also questions Mr. Jenkins.

Recess taken. Count #2300 - resume session.

COUNT: 10:30

Mr. Jenkins continues to testify. Mr. Hughes offers Exhibits 209 & 210. (count 6026)

COUNT: 1:00 p

Tape 623 ct. 1- Jenkins continues to testify with Mr. Hughes questioning. Exhibit 103 offered. The Court will receive the exhibit but limited only to the issue of good faith.

COUNT: 2:00 p

Court resumes session after one hour break.

Mr. Beaslin cross examines Mr. Jenkins, redirect offered by Mr. Hughs, and then Mr. Jenkins testifies under his own questions.

TIME: 4:22 PM Mr. Beaslin recalls Neldon Cooper to the stand.

All parties have rested.

The parties agree that they want to submit the issue and not argue. The Court asks the parties about the issue of good faith on Mr. Jenkins part and the parties agree that the issue of good faith should be addressed by the Court after the final decision

TIME: 4:24 PM is reached.

The Court takes the matter under advisement for ruling.

-29-97	Trust Account created	Total Due:	0.00	dawnat
-29-97	Trust Account created	Total Due:	3000.00	dawnat
-29-97	Other Trust	Payment Received:	3,000.00	dawnat
	Note: Mail Payment			
-29-97	Fee Account created	Total Due:	0.50	dawnat
-29-97	COPY FEE	Payment Received:	0.50	dawnat
-29-97	Filed: Notice of Tender;	M&J Construction, INC		dawnat
-29-97	Filed: Notice of Tender;	Edwin M. Higley and Afton C. Higley		dawnat
-29-97	Fee Account created	Total Due:	0.25	dawnat
-29-97	COPY FEE	Payment Received:	0.25	dawnat
	Note: Mail Payment			
-29-97	Trust Account created	Total Due:	3000.00	dawnat
-29-97	Other Trust	Payment Received:	3,000.00	dawnat
	Note: Mail Payment			
-03-98	Notice - NOTICE for Case 930800100 ID 20218			jor
	HEARING FOR ATTORNEY FEES is scheduled.			
	Date: 02/25/1998			
	Time: 01:30 p.m.			
	Location: ROOM 1			
	UINTAH COUNTY BUILDING			
	147 EAST MAIN STREET			
	VERNAL, UT 84078			
	before Judge A. LYNN PAYNE			
	Hearing on attorney fees			
-03-98	HEARING FOR ATTORNEY FEES scheduled on February 25, 1998 at			
	01:30 PM in ROOM 1 with Judge PAYNE.			jor
-04-98	Filed order: Ruling and Order			jor
	Judge apayne			
	Signed February 04, 1998			
-19-98	Filed: Motion for Disqualification Pursuant to Rule 63 (b) In			
	Re: The Hon A. Lynn Payne and the Hon John R Anderson			shanaw
-19-98	Filed: Affidavit of Lynn A. Jenkins in Support of Rule 63			
	Motion and for Appointment of a Special Prosecutor			shanaw
-24-98	Filed order: Faxed copy of Ruling and Order on Affidavit of			
	Bias			dawnat
	Judge landerso			
	Signed February 24, 1998			
-25-98	Filed: Verified Memorandum of Attorney Fees and Costs			dawnat
-25-98	Minute Entry - Minutes for Law & Motion			jor
	Judge: A. LYNN PAYNE			
	Clerk: jor			

PRESENT

Plaintiff's Attorney(s): JOHN C. BEASLIN  
Defendant's Attorney(s): PHILIP R HUGHES  
Other Parties: LYNN A. JENKINS  
Tape Number: C34 Tape Count: 650

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HEARING

Mr. Jenkins and Mr. Hughes are appearing telephonically, with Mr. Beaslin in chambers. Mr. Jenkins and Mr. Hughes state that the weather conditions in Salt Lake City do not permit them to attend today's hearing. The Court grants the continuance. Mr.

Jenkins and Hughes state that Mr. Higley will not be able to attend a hearing until approximately the end of March due to poor health. Mr. Jenkins makes several objections unrelated to setting the trial date. The Court advises him that this is not the reason for the conference call and gives court dates that are available. All parties check their calendars and agree on 4/29/98 at 9:00 am.

HEARING ON ATTORNEY FEES is scheduled.

Date: 04/29/1998

Time: 09:00 a.m.

Location: ROOM 1

UINTAH COUNTY BUILDING

147 EAST MAIN STREET

VERNAL, UT 84078

before Judge A. LYNN PAYNE

-25-98 HEARING ON ATTORNEY FEES scheduled on April 29, 1998 at 09:00 AM in ROOM 1 with Judge PAYNE.

jor

-26-98 Filed order: Ruling and Order on Affidavit of Bias

shanaw

Judge landerso

Signed February 24, 1998

-26-98 Notice - NOTICE for Case 930800100 ID 21307

jor

HEARING ON ATTORNEY FEES is scheduled.

Date: 04/29/1998

Time: 09:00 a.m.

Location: ROOM 1

UINTAH COUNTY BUILDING

147 EAST MAIN STREET

VERNAL, UT 84078

before Judge A. LYNN PAYNE

-02-98 Notice - NOTICE for Case 930800100 ID 21388

jor

HEARING ON ATTORNEY FEES.

Date: 05/05/1998

Time: 09:00 a.m.

Location: ROOM 1



UINTAH COUNTY BUILDING  
 147 EAST MAIN STREET  
 VERNAL, UT 84078

before Judge A. LYNN PAYNE

The reason for the change is Conflict in Judge Schedule  
 AMENDED NOTICE OF HEARING ON ATTORNEY FEES

- 02-98 HEARING ON ATTORNEY FEES rescheduled on May 05, 1998 at 09:00 AM Reason: Conflict in Judge Schedule. jor
- 02-98 Fee Account created Total Due: 23.50 shanaw
- 02-98 COPY FEE Payment Received: 23.50 shanaw
- 02-98 Filed: Affidavit of Lynn S. Jenkins in Support of Rule 63 Motion; in Re; Hon. Lyle R. Anderson; in re: Bruce K. Halliday; in re: Seventh Judicial District Court candace
- 02-98 Filed: Motion to Move Jurisdiction of Rule 63(b) Affidavit - In re: The Hon. A. Lynn Payne, the Hon. John R. Anderson, and for Appointment of a Special Prosecutor(s) candace
- 10-98 Filed: Answer to Intervenor's and Petitioner's Motion to Move Jurisdiction Pursuant to Rule 63(b) and to Strike the Affidavit of Lynn Allan Jenkins as to an Appointment of a Special Prosecutor joannem
- H ARVENE & MAURICE N COOPER
- March 10, 1998
- 24-98 Fee Account created Total Due: 8.00 cherylw
- 24-98 COPY FEE Payment Received: 8.00 cherylw
- 27-98 Filed: Transcript of Proceedings Dec. 16, 1997 jor
- 27-98 Filed: Transcript of Bench Trial for Dec. 15, 1997 jor
- 27-98 Filed: Copy of Letter to Judge Lyle R. Anderson jor
- 29-98 Filed: Supplemental Verified Memorandum of Attorney Fees and Costs cherylw
- 29-98 Filed order: Order (Judge Payne permitted to remain on case) Judge landerso cherylw
- Signed April 27, 1998
- 30-98 Filed: Reporter's Worksheet jor
- 04-98 Filed: Cost Bond for Appeal candace
- 04-98 Filed: Certificate That Transcript Is Required candace
- 04-98 Filed: Notice of Appeal (Certified Copy mailed to Utah Court of Appeals) candace
- 04-98 Filed: Request for Stay candace
- 04-98 Filed: Notice of Appeal candace
- 04-98 Fee Account created Total Due: 190.00 candace
- 04-98 APPEAL Payment Received: 190.00 candace
- Note: Code Description: APPEAL
- 05-98 Filed: Letter to Russell Morgan (re: transcripts) candace
- 05-98 Minute Entry - Minutes for HEARING ON ATTORNEY'S FEES dawnat
- Judge: A. LYNN PAYNE
- Clerk: dawnat
- PRESENT

Plaintiff's Attorney(s): JOHN C. BEASLIN

Defendant's Attorney(s): PHILIP R HUGHES  
Other Parties: LYNN A. JENKINS  
NELDON COOPER

Audio

Tape Number: 676 Tape Count: 3580

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HEARING

The Affidavit and Supplemental Affidavit of Mr. Beaslin have been received and reviewed by the Court. Mr. Beaslin states that an additional \$500.00 is anticipated for preparation of the Findings and Order and the Judgment. Mr. Beaslin is sworn and testifies on his attorney's fees as itemized in his affidavit. He is cross examined by both Mr. Hughes and Mr. Jenkins. (Tape change to 677-1). The Court finds the following: That Mr. Beaslin's billing rate is very reasonable. That with the exception of 14 hours, the number of hours billed is reasonable. That the Court has been aware through its involvement with this case that the issue of attorney's fees would likely be an issue and in fact mentioned this on several occasions when non-meritorious issues were being introduced. That Mr. Beaslin's estimation of the split of the burden of attorney's fees at 60% to Mr. Jenkins and 40% to Mr. Hughes is what the Court would have assigned. That Mr. Hughes' clients should get a 10% discount on the attorney's fees as the other parties did not receive all that was requested and the passage of time did affect the claims being made. That \$1,400.00 will be subtracted from Mr. Beaslin's accounting of costs for time spent on issues not relating to this case in particular but relating to his clients' probate case, the newer case filed and personal matters. That costs are to be awarded as prayed for. That the total debt owed by Edwin and Ashton Higley and M&J Construction is \$10,000.00 and that Edwin Higley is responsible for a debt of \$4,408.00 individually. That Lynn A. Jenkins is responsible for a total of \$15,624.00. Mr. Beaslin is to prepare the judgment and order on this with specific findings of fact included. These amounts do not include the \$175.00 which is for Mr. Beaslin's time here today and the costs of preparing the findings, judgment and order which are to be split 40%/60% as previously ordered. Regarding Mr. Hughes' apparent conflict of interest, he is to have his clients submit a letter through independent counsel indicating their position on this and the fact that they were aware of and advised of it. This will address the Court's concern regarding the issue of the conflict. Regarding the Motion to Stay, Mr. Beaslin objects to it and the Court denies the motion. Regarding the Petition to Move Jurisdiction, the Court denies this. Also, the Court denies the Petition to Challenge the Judges of the 7th

District, Mr. Jenkins states that this is not an issue for this Court, but the Court believes it is and denies the same. (2 hours)

-08-98	Trust Account created	Total Due:	25.00	katep
-08-98	Reporter Fees	Payment Received:	25.00	katep
-11-98	Filed: Letter from Supreme Court indicating their case number as 980219			dawnat
-13-98	Filed: Transcript of 2/25/98 Proceedings			dawnat
-20-98	Filed: Reporter's Worksheet (Copy to Kate)			shanaw
-20-98	Trust Account created	Total Due:	20.00	shanaw
-20-98	Note: \$20.00 rec'pt to trust for transcript of 5/5/98 hearing requested by John Beaslin.			shanaw
-20-98	Reporter Fees	Payment Received:	20.00	shanaw
-20-98	Filed order: Ruling Judge apayne Signed May 19, 1998			dawnat
-22-98	Filed: Transcript of Proceedings on Courts Ruling on Attorney 5/5/98			shanaw
-22-98	Reporter Fees	Payment Received:	30.00	shanaw
-22-98	Note: \$30.00 receipted for transcript on 5/5/98. The original \$20.00 + \$30.00 = \$50.00 and makes this payment in full.			shanaw
-27-98	Filed: Notice to Submit Request for Stay (to ALP0			candace
-27-98	Filed: Copy of Docketing Statement			candace
-10-98	Filed: Lynn A. Jenkins' First Sets of Requests for Admissions, Interrogatories and Requests for Production of Documents (file stamped by clerk for pagination purposes)			dawnat
-10-98	Filed: Unsigned Default Judgment (stamped by clerk for pagination purposes)			dawnat
-10-98	Filed: Notice of Default (stamped by clerk for pagination purposes)			dawnat
-10-98	Filed: Extraordinary Writ (stamped by clerk for pagination purposes)			dawnat
-10-98	Filed: Memorandum in Support of Extraordinary Writ (stamped by clerk for pagination purposes)			dawnat
-10-98	Filed: Original Petition for Extraordinary Writ (stamped by clerk for pagination purposes)			dawnat
-10-98	Filed: Default Judgment (stamped by clerk for pagination purposes)			dawnat
-10-98	Filed: Certifiante of Default and Default Judgment (stamped by clerk for pagination purposes)			dawnat
-10-98	Filed: Certificate of Default and Default Judgment (stamped by clerk for pagination purposes)			dawnat
-10-98	Filed: Order of the Court (stamped by clerk for pagination purposes)			dawnat
-10-98	Filed: Order of the Court (stamped by clerk for pagination purposes)			dawnat
-10-98	Filed: Order of Intervention of Plaintiff Lynn Allan Jenkins, I (stamped by clerk for pagination purposes)			dawnat
-10-98	Filed: Copy of 3/5/96 Ruling (Stamped by this clerk for			

- pagination purposes) dawnat
- 10-98 Filed: Copy of Notice of Sale of Personal Property (stamped by clerk for pagination purposes) dawnat
- 10-98 Filed: Findings of Fact and Conclusions of Law (stamped by clerk for pagination purposes) dawnat
- 10-98 Filed: Judgment and Order of the Court (stamped by clerk for pagination purposes) dawnat
- 10-98 Filed: Verified Memorandum of Attorney Fees and Costs (stamped by clerk for pagination purposes) dawnat
- 10-98 Filed: 6/9/95 Fax from Philip Hughes to Judge Anderson (stamped by this clerk for pagination ) dawnat
- 10-98 Filed: Motion to Strike Plaintiffs' Findings of Fact, Conclusions of Law and Order and Judgment cherylw
- 10-98 Filed: Motion for Extension of time for Appellant to Respond to Appellees' Motion to Dismiss Appeal cherylw
- 01-98 Filed: Copy of Response to Appellees Coopers' Motions to Dismiss Appeal and Strike Docketing Statement candace
- 17-98 Filed: Plaintiffs' Motion Requesting Hearing, Rule 11 Sanctions, Request for Interest on Judgment and Request for Attorney Fees (to alp) shanaw
- 22-98 Notice - NOTICE for Case 930800100 ID 29008 dawnat  
MOTION HEARING is scheduled.  
Date: 08/04/1998  
Time: 01:35 p.m.  
Location: ROOM 1  
UINTAH COUNTY BUILDING  
147 EAST MAIN STREET  
VERNAL, UT 84078  
before Judge A. LYNN PAYNE
- 22-98 MOTION HEARING scheduled on August 04, 1998 at 01:35 PM in ROOM 1 with Judge PAYNE. dawnat
- 28-98 Filed: Reply to Plaintiffs' Motion Requesting Hearing, Rule 11 Sanctions, Request for Interest on Judgment and Request for Attorney Fees candace
- 31-98 Filed: Motion to Strike Clerk's Notice of Motion Hearing Dated July 23, 1998, and mailed July 28, 1998 candace
- 03-98 Filed: Plaintiff's Objection to Intervenor's Motion to Strike Clerk's Notice of Motion Hearing Dated 7/23/98 and Mailed 7/28/98 dawnat
- 04-98 Judgment #1 Entered judih  
Debtor: M & J CONSTR INC  
Creditor: H ARVENE & MAURICE N COOPER  
54,422.62 Total Judgment  
54,422.62 Judgment Grand Total
- 04-98 Minute Entry - Minutes for MOTION HEARING dawnat  
Judge: A. LYNN PAYNE  
Clerk: vlv  
Reporter: MORGAN RUSSEL  
PRESENT

Plaintiff's Attorney(s): JOHN C. BEASLIN  
Defendant's Attorney(s): PHILIP R HUGHES

## HEARING

Philip Hughes appears telephonically and states he objects to the short notice he got of this proceeding. The Court informs him the clerk mailed it to the address in the computer and not the one he has on his pleadings. The correct address is given and the clerk will correct it on the computer. Regarding the letter Mr. Hughes' clients are to file regarding the apparant conflict of interest, the Court will give him 30 days to have this filed or the matter will be referred to the State Bar. Regarding the proposed Findings of Fact and Conclusions of Law and Judgment and Order, discussion is heard and the Court approves and executes both documents. Regarding the Motion for Rule 11 Sanctions, Mr. Beaslin states the issues may now be moot. The Court notes that the notice dated 7/28/98 did not give enough notice to Mr. Jenkins and Mr. Hughes and the Court will hear this matter on another date if the parties wish. Mr. Beaslin moves to strike the motion and the Court does so.

-04-98 Filed judgment: Trial Judgment dawnat  
                    Judge apayne  
                    Signed August 04, 1998

-04-98 Judgment #2 Entered viw  
    Debtor: EDWIN HIGLEY  
    Debtor: EDWIN M. HIGLEY  
    Creditor: H ARVENE & MAURICE N COOPER  
            47,500.00 Total Judgment  
            47,500.00 Judgment Grand Total

-04-98 Judgment #3 Entered viw  
    Creditor: H ARVENE & MAURICE N COOPER  
    Debtor: LYNN JENKINS  
            15,625.00 Total Judgment  
            15,625.00 Judgment Grand Total

-04-98 Filed judgment: Trial Judgment dawnat  
                    Judge apayne  
                    Signed August 04, 1998

-04-98 Judgment #4 Entered viw  
    Debtor: M & J CONSTR INC  
    Debtor: EDWIN M & AFTON HIGLEY  
    Creditor: H ARVENE & MAURICE N COOPER  
            10,000.00 Total Judgment  
            10,000.00 Judgment Grand Total

-04-98 Judgment #5 Entered dawnat  
    Creditor: H ARVENE & MAURICE N COOPER

Debtor: LYNN A. JENKINS  
 465.00 Total Judgment  
 465.00 Judgment Grand Total

-04-98 Judgment #6 Entered viw  
 Debtor: M & J CONSTR INC  
 Debtor: EDWIN HIGLEY  
 Debtor: EDWIN M & AFTON HIGLEY  
 Creditor: H ARVENE & MAURICE N COOPER  
 310.00 Total Judgment  
 310.00 Judgment Grand Total

-04-98 Filed order: Findings of Fact and Conclusions of Law dawnat  
 Judge apayne  
 Signed August 04, 1998

-04-98 Filed order: Judgment and Order dawnat  
 Judge apayne  
 Signed August 04, 1998

-04-98 Case Disposition is Judgement dawnat  
 Disposition Judge is A. LYNN PAYNE dawnat

-05-98 Filed: Philip Hughes' copy of notice for 8/4/98 hearing is  
 returned as "Not Deliverable as Addressed" , "Unable to  
 Forward" and will not be resent as this matter has been  
 addressed and the Court has been in contact with Mr. Hughes  
 regarding it. dawnat

-05-98 Filed judgment: Trial Judgment dawnat  
 Judge apayne  
 Signed August 04, 1998

-05-98 Judgment #1 Modified judih  
 Debtor: M & J CONSTR INC  
 Creditor: H ARVENE & MAURICE N COOPER  
 54,422.62 Total Judgment  
 54,422.62 Judgment Grand Total

05-98 Judgment #2 Modified viw  
 Debtor: EDWIN HIGLEY  
 Debtor: EDWIN M. HIGLEY  
 Creditor: H ARVENE & MAURICE N COOPER  
 47,500.00 Total Judgment  
 47,500.00 Judgment Grand Total

05-98 Judgment #3 Modified viw  
 Creditor: H ARVENE & MAURICE N COOPER  
 Debtor: LYNN JENKINS  
 15,625.00 Total Judgment  
 15,625.00 Judgment Grand Total

05-98 Judgment #5 Modified dawnat  
 Creditor: H ARVENE & MAURICE N COOPER  
 Debtor: LYNN A. JENKINS  
 465.00 Total Judgment  
 465.00 Judgment Grand Total

05-98 Judgment #6 Modified viw  
 Debtor: M & J CONSTR INC

Debtor: EDWIN HIGLEY  
Debtor: EDWIN M & AFTON HIGLEY  
Creditor: H ARVENE & MAURICE N COOPER  
310.00 Total Judgment  
310.00 Judgment Grand Total

-05-98 Filed: Certificate of Mailing of Findings and Judgment dawnat  
-05-98 Filed: Petition for Extraordinary Writ (copy: original filed  
with Supreme Court) dawnat  
-06-98 Tracking started for Mental Review. Review date Sep 04, 1998. dawnat  
-10-98 Note:  
-10-98 Reporter Fees Check # 11241 Trust Payout: 50.00 joannem  
-10-98 Note:  
-10-98 Reporter Fees Void of trust payout: -50.00 joannem  
Note: Clerk Error  
-14-98 Filed: Letter from Court of Appeals stating the case has been  
assigned to them and case number is 980219-CA shanaw  
-14-98 Filed: Affidavit of Garnishee as to Continuing Garnishment shanaw  
-18-98 Filed: Motion and Memorandum in Support of Motion for  
Reconsideration and/or for New Trial candace  
-18-98 Filed: Notice of Undertaking candace  
-19-98 SUPPLEMENTAL ORDER scheduled on September 15, 1998 at 01:30 PM  
in ROOM 2 with Judge PAYNE. candace  
-20-98 Filed: REC: Motion and Order in Supplemental Proceedings (to  
ALP) candace  
-25-98 Issued: Supplemental Order dawnat  
Judge A. LYNN PAYNE  
-25-98 Tracking ended for Mental Review. dawnat  
-25-98 Filed: Affidavit of Philip R. Hughes candace  
-02-98 Filed: Response to Motion and Memorandum in Support of Motion  
for Reconsideration and / or New Trial. shanaw  
-02-98 Filed: Request for Ruling (to alp) shanaw  
-08-98 Filed: Notification from Supreme Court that this case has been  
poured over to the Court of Appeals shanaw  
-09-98 Filed: Copy of Index of Record on Appeal shanaw  
-10-98 Filed: Letter from Court of Appeals indicating their case  
number. shanaw  
-16-98 Filed: Ruling viw  
-17-98 Fee Account created Total Due: 1.00 dawnat  
-17-98 COPY FEE Payment Received: 1.00 dawnat  
-18-98 Note: Exhibits from this case are in the large file cabinet  
(left side) near Russ' office! dawnat  
-23-98 Filed: Request for Hearing and Request for Ruling viw  
-25-98 Notice - NOTICE for Case 930800100 ID 32148 viw  
REVIEW HEARING is scheduled.  
Date: 10/27/1998  
Time: 01:34 p.m.  
Location: ROOM 2  
UINTAH COUNTY BUILDING  
147 EAST MAIN STREET

VERNAL, UT 84078  
before Judge A. LYNN PAYNE

Per Request for Hearing and for Ruling by Defendants on Notice of Undertaking, Tender to the Court, clarification of 9/11/98 Ruling, etc.

-08-98 Notice - NOTICE for Case 930800100 ID 33041 REVIEW HEARING is scheduled. viw

Date: 11/24/1998

Time: 01:34 p.m.

Location: ROOM 1

UINTAH COUNTY BUILDING

147 EAST MAIN STREET

VERNAL, UT 84078

before Judge A. LYNN PAYNE

Per Request for Hearing and for Ruling by Defendants on Notice of Undertaking, Tender to the Court, Clarification of 9/11/98 Ruling, etc.

-08-98 REVIEW HEARING scheduled on November 24, 1998 at 01:34 PM in ROOM 1 with Judge PAYNE. viw

-23-98 Filed: Memorandum Decision fro the Utah Court of Appeals (Jenkin's appeal is dismissed for lack of jurisdiction) joannem

-05-98 Note: Mr. Jenkins informed the Court that he filed a Notice of Tender to the Second Judicial District Court in Davis County and requested that an original Tender be filed in Case No. 930800100CN also. viw

-05-98 Filed: Notice of Tender; Lynn A. Jenkins I., To Clerk of Second Judicial District Court viw

-06-98 Filed: Utah Court of Appeals Amended Memorandum Decision (copy to Judge Lyle Anderson) shanaw

-10-98 Filed: Two Copies of Appellant's Motion to Strike the Court's October 1, 1998 Memorandum Decision and November 5, 1998 Amended Memorandum Decision cherylw

-20-98 Filed: Affidavit of Prejudice and Bias of Certain Judges in the Utah Court of Appeals candace

-20-98 Filed: Petition to Change Date of Entry "Order Denying Petition for Extraordinary Relief" candace

-20-98 Filed: Affidavit of Prejudice and Bias of Certain Judges in the Utah Court of Appeals candace

-20-98 Filed: Petition to Change Date of Entry "Order Denying Petition for Extraordinary Relief" candace

-25-98 Fee Account created Total Due: 13.50 shanaw

-25-98 COPY FEE Payment Received: 13.50 shanaw

-25-98 COPY FEE Payment Reversal: -13.50 shanaw

Note: Clerk Error - will re-enter

-25-98 Fee Account created Total Due: 13.50 shanaw

-25-98 COPY FEE Payment Received: 13.50 shanaw

-25-98 Note: Receipt 982260010 reversed as it was receipted to the



wrong payor (Arvene Cooper). Pymt was re-entered to correct  
payor (Lynn Jenkins) shanaw  
-25-98 Minute Entry - Minutes for REVIEW HEARING viw  
Judge: A. LYNN PAYNE  
Clerk: viw  
PRESENT  
  
Plaintiff's Attorney(s): JOHN C. BEASLIN  
Defendant's Attorney(s): PHILIP R HUGHES  
Other Parties: LYNN A. JENKINS  
Audio  
Tape Number: 785 Tape Count: 1225

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HEARING

The matter before the Court is Affidavit filed by Mr. Hughes dated August 22, 1998. The Affidavit is not accompanied by a Motion designating it to be a Motion to Disqualify under Rule 63 U.R.C.P. The Affidavit indicates it is filed in support of a Motion for Reconsideration, or in the alternative, for a new trial. Mr. Hughes indicates in Court that this Affidavit is in support of a Rule 63 Motion to disqualify. The Court informs counsel that he needs to read the Affidavit and rule on it before this matter proceeds any further. The Court informs counsel that if it is necessary to re-assign this matter to another judge, that that would take place upon his review of the Affidavit.

-27-98 Note: Copy of 11/25/98 Ruling and all other file documents currently in this Courts possession sent to Judge Lyle Anderson. judih

-27-98 Filed order: Ruling Judge apayne judih  
Signed November 25, 1998

-11-98 Filed order: Ruling on Affidavit of Bias viw  
Judge landerso  
Signed December 09, 1998

-21-98 Filed: Petition for Writ of Certiorari to the Utah Court of Appeals cherylw

-22-98 Filed: Letter from Supreme Court of Utah judih

-29-98 Note: Executions received, issued (by ALP) and returned to Mr. Beaslin. judih

-29-98 Filed: Precipe judih

-29-98 Filed: Precipe judih

-29-98 Issued: Abstract of Judgment Judge A. LYNN PAYNE judih

-21-99 Filed: Memorandum Decision, Amended Memorandum Decision, & Remittitur (from Court of Appeals). (to alp) shanaw

-28-99 Filed return: Writ of Execution and Precipe with Return of

	Service (POSTED)		shanaw
	Party Served: JENKINS, LYNN A		
	Service Type: Publication		
	Service Date: January 14, 1999		
-28-99	Filed return: Keeper's Receipt, Writ of Execution and Precipe with Return of Service (posted and served to Shane Frost)		shanaw
	Party Served: Shane Frost		
	Service Type: Personal		
	Service Date: January 14, 1999		
-29-99	Filed return: Notice of Sale with Return of Service		cherylw
	Service Type: NonPersonal		
	Service Date: January 28, 1999		
-10-99	Issued: Request for Hearing and Notice of Execution (returned for service with Writ of Execution copies of Precipe)		shanaw
	Clerk shanaw		
-10-99	Filed: Precipe		shanaw
-11-99	Filed: Precipe (for Writ of Execution in the amount of \$16,090.00 which conicides with Judgment #3)		shanaw
-11-99	Issued: Writ of Execution (In the Amount of \$16, 090.00 which conicides with Judgment #3) Issued and returned to John Beaslin for Service (Precipie, Notice of Writ of Execution and 2 Requests for Hearing were also attached for service)		shanaw
	Clerk shanaw		
3-12-99	Filed: Order from Supreme Court		candace
3-12-99	Filed return: Execution with Return of Service		candace
	Party Served: Shane & Lynn		
	Service Type: Personal		
	Service Date: March 11, 1999		
4-12-99	Filed: Notice of Sale		candace
4-12-99	Filed: Notice of Sale		candace
4-12-99	Filed return: Execution with Return of Service		candace
	Party Served: Shane & Lynn		
	Service Type: Personal		
	Service Date: March 11, 1999		
4-14-99	Filed: Oder from Supreme Court (Denying Writ of Certiarari filed on 12/18/98)		shanaw
4-20-99	Filed: Certificate of Sale and Payment		judih
4-20-99	Filed: Certificate of Sale and Payment		judih
4-21-99	Fee Account created	Total Due: 15.00	shanaw
4-21-99	COPY FEE	Payment Received: 15.00	shanaw
5-08-99	Filed: Proof of Publication		shanaw
5-08-99	Filed: Proof of Publication		shanaw
5-21-99	Note:		
5-21-99	Reporter Fees Check # 11593	Trust Payout: 25.00	joannem
5-21-99	Note:		
5-21-99	Reporter Fees Check # 11594	Trust Payout: 50.00	joannem
5-22-99	Fee Account created	Total Due: 25.00	viw
5-22-99	REPORTER FEES	Payment Received: 25.00	viw
	Note: REPORTER FEES		

-22-99	Fee Account created	Total Due:	50.00	viw
-22-99	REPORTER FEES	Payment Received:	50.00	viw
	Note: REPORTER FEES			
-23-99	Filed: Precipe			candace
-20-99	Fee Account created	Total Due:	2.00	cherylw
-20-99	CERTIFICATION	Payment Received:	2.00	cherylw
-21-99	Filed: Precipe			michell
-22-99	Filed: Partial Satisfaction of Judgment			viw
-22-99	Judgment #2 Modified Disposition: Satisfied			viw
-22-99	Judgment #3 Modified			viw
	Creditor: H ARVENE & MAURICE N COOPER			
	Debtor: LYNN JENKINS			
	15,625.00 Total Judgment			
	15,625.00 Judgment Grand Total			
-22-99	Judgment #6 Modified Disposition: Satisfied			viw
-22-99	Judgment #4 Modified Disposition: Satisfied			viw
-22-99	Filed: Certificate of Service			viw
-24-99	Issued: Execution (returned for service)			viw
	Judge A. LYNN PAYNE			
-29-99	Filed: Certificate of Mailing of Original Partial Satisfaction of Judgment			cherylw
-01-99	Note: Amount was posted as a Redemption bond by Mr. Jenkins			cherylw
-01-99	Bond Account created	Total Due:	18242.60	cherylw
-01-99	Bond Posted	Payment Received:	18,242.60	cherylw
	Note: Amount was posted as a Redemption bond by Mr. Jenkins			
-01-99	Fee Account created	Total Due:	10.00	cherylw
-01-99	Fee Account created	Total Due:	12.50	cherylw
-01-99	Fee Account created	Total Due:	2.50	cherylw
-01-99	CERTIFICATION	Payment Received:	10.00	cherylw
-01-99	CERTIFIED COPIES	Payment Received:	12.50	cherylw
-01-99	COPY FEE	Payment Received:	2.50	cherylw
-01-99	Filed: Copy of Notice of Redemption and Objection to Costs			viw
-01-99	Fee Account created	Total Due:	10.50	viw
-01-99	COPY FEE	Payment Received:	10.50	viw
-04-99	Fee Account created	Total Due:	0.25	viw
-04-99	COPY FEE	Payment Received:	0.25	viw
-18-99	Filed: Certificate of Mailing			judih
-18-99	Trust Account created	Total Due:	18242.60	judih
-18-99	Bond Transfer/Refund	Payment Received:	-18,242.60	judih
-18-99	Bail/Bond Refund	Payment Received:	18,242.60	judih
0-18-99	Note:			
0-18-99	Note:			
0-18-99	Other Trust Check # 11697	Trust Payout:	3,000.00	judih
0-18-99	Bail/Bond Refund Check # 11699	Trust Payout:	18,242.60	judih
0-18-99	Note:			
0-18-99	Other Trust	Void of trust payout:	-3,000.00	judih
	Note: Wrong Payee			
0-18-99	Note:			

-18-99	Bail/Bond Refund	Void of trust payout:	-18,242.60	judih
	Note: Printer Error			
-19-99	Filed: Partial Satisfaction of Judgment			judih
-19-99	Judgment #1 Modified Disposition: Partial Satisfaction			judih
-19-99	Note:			
-19-99	Note: Check #11703 payee changed to BEASLIN, JOHN C. from COOPER, H. ARVENE			judih
-19-99	Note:			
-19-99	Other Trust Check # 11703	Trust Payout:	3,000.00	judih
-19-99	Bail/Bond Refund Check # 11705	Trust Payout:	18,242.60	judih
-19-99	Filed: Certificate of Redemption			judih
-19-99	Filed: Motion To Accept Certificate of Redemption and Order Payment of Redemption Price			judih
-08-99	Filed order: Order Approving Certificate of Redemption and Ordering Payment of Redemption Funds To Purchaser At Sheriff's Sale			judih
	Judge apayne Signed November 08, 1999			
-08-99	Note: Check given to Devon J. McKee in the amount of \$18,242.60.			judih
-14-00	Fee Account created	Total Due:	0.25	shanaw
-14-00	COPY FEE	Payment Received:	0.25	shanaw
-03-00	Fee Account created	Total Due:	2.75	shanaw
-03-00	COPY FEE	Payment Received:	2.75	shanaw
-09-00	Fee Account created	Total Due:	1.75	shanaw
-09-00	COPY FEE	Payment Received:	1.75	shanaw
?-05-01	Filed: Letter to Defendants parties on \$3000 bond posted			viw
?-05-01	Note: Tracking for Review 2/21/01: If parties have not filed an Objection, refund \$3000 to M & J Construction.			viw
?-05-01	Tracking started for Review. Review date Feb 21, 2001.			viw
2-16-01	Filed: Objection by John Beaslin			viw
3-02-01	Note: Transcript fees paid in advance			viw
3-02-01	Bond Account created	Total Due:	1.75	
3-02-01	Note: Transcript fees paid in advance by Mr. Jenkins			viw
3-02-01	Bond Account created	Total Due:	100.00	viw
3-02-01	Fee Account created	Total Due:	8.50	viw
3-02-01	Bond Posted	Payment Received:	100.00	viw
	Note: Transcript fees paid in advance by Mr. Jenkins			
3-02-01	COPY FEE	Payment Received:	8.50	viw
3-02-01	Note: Mr. Jenkins paid \$100 in advance for a transcript of hearing. Clerk set it up as cash bail. Mr. Jenkins was instructed to submit a Request for Transcript for 11/25/98 Review Hearing.			viw
5-09-01	Fee Account created	Total Due:	15.75	viw
5-09-01	COPY FEE	Payment Received:	15.75	viw
5-10-01	Filed: Request for Transcripts August 4, 1998 Hearing and November 25, 1998 Hairng (copy to C. Weeks)			viw

## **Exhibit “B”**

Lynn Allan Jenkins I.  
Three East 2750 South  
Bountiful Utah 84010

Telephone: (801) 299-1520

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT  
IN AND FOR DAVIS COUNTY, STATE OF UTAH

LYNN ALLAN JENKINS,

Plaintiff,

vs.

ALBERT "LYNN" PAYNE, DAVID  
YOUNG PAYNE, UTAH STATE BAR,  
NORTH SALT LAKE CITY, DAVIS  
COUNTY, and UINTAH COUNTY,

Defendants.

)  
)  
) COMPLAINT WITH  
) JURY DEMAND  
)  
)  
)

) Civil No. 97070315

) Judge RODNEY S. PAGE  
) DISTRICT JUDGE

COMES NOW PLAINTIFF Lynn Allan Jenkins and alleges as follows:

1. Plaintiff is a bona fide and actual resident of Davis County, Utah, and has been for more than five years immediately prior to the commencement of this action and owns or controls property in Davis County.

2. Plaintiff and Linda Marie Mitchell Jenkins are husband and wife, having been married at Magna City Utah, on the 22 nd day of August, 1962.

3. Plaintiff and his wife have six children as issue of said marriage, to-wit:

JULIE ANN, born July 16, 1963

LYNN ALLAN, born July 2, 1964

ANDREW CHRISTEN, born February 15, 1969

JODIE MARIE, born July 6, 1970

MICHELLE DEONE, born April 6, 1974

MICHAEL DAVID, born November 6, 1976

---

Said children are now in their own care and custody.

4. Defendant Albert "Lynn" Payne, resides in Uintah County, Utah, and is believed to be the son of "Albert" L. Payne and Sylvia Young Payne. Defendant Lynn Payne is also a Utah District Court Judge for Uintah County and a member in good standing with the Utah State Bar.

5. Defendant David Young Payne resides in Davis County Utah, and is believed to be the son of "Albert" L. Payne and Sylvia Young Payne. Defendant David Young Payne, is a Judge for North Salt Lake City, Utah and a member in good standing with the Utah State Bar.

6. Defendant Utah State Bar is the regulatory branch for the practice of law in the State of Utah.

7. On January 11, 1995, on a public highway called Interstate 15, in North Salt Lake City, Utah, plaintiff was stopped by the Utah Highway Patrol for crossing over the left yellow line of said highway for a distance of approximately 50 feet at 60 MPH.

8. Plaintiff after taking and passing a blood alcohol breath test, was arrested for driving under the influence of alcohol even though he had a negative blood alcohol level as shown on North Salt Lake City's breath machine.

9. As a result plaintiff was thrown into jail and blood was taken from his body and given to the U.S. Mail Service's custody who then delivered the blood samples to the Utah Department of Health about one week later. The blood samples analyzed by the Department of Health showed a negative alcohol level however 72

nano grams of alprazolam which North Salt Lake City determined to be beyond any therapeutic level allowed under Utah law.

10. On or about January 12, 1995, plaintiff filed a demand for Jury Trial with the North Salt Lake City Court, which was denied by its judge the Hon. David Young Payne and City Prosecutor Michael Nielsen.

11. On or about March 15, 1995, plaintiff filed with the Hon. A. Lynn Payne a demand for Jury Trial in a Uintah County cause of action that should more properly in the jurisdiction of Davis County.

12. On or about April 26, 1995, Judge A. Lynn Payne ruled that plaintiff was not entitled to a Jury Trial on his Davis County real property and its Uniform Real Estate Contract purportedly date December 26, 1977, which clearly was paid in full on December 27, 1977 as recorded by the Davis County Recorder in August 1978.

13. July 16, 1997, Judge Lynn Payne ruled that the Utah State Bar picnic to be held on August 22, 1997 at a park near his home, was more important than the plaintiff's wife and his Thirty-fifth Wedding Anniversary and scheduled his continuing non-jury trial on the plaintiff's Davis County real property.

Wherefore, plaintiff demands judgment against defendants as follows (1) the Utah State Bar shall cancel its August 22, 1997, Basin Bar Picnic so that plaintiff may attend his wife Anniversary Party; (2) Davis County shall on August 22, 1997 empanel in Davis County, a Jury of its citizens to determine the facts of plaintiff's Davis County Real Property with the Hon. A. Lynn Payne,



presiding; (3) that North Salt Lake City shall grant plaintiff a Jury Trial in its courtroom on the issues of its January 11, 1995 DUI arrest; (4) Uintah County shall file a report with the court as to its findings and conclusions of law concerning the Uintah County Court lawsuit; (5) for plaintiff's costs and attorney fees; AND for such other relief the court deem proper.

DATED this 23<sup>rd</sup> day of July 1997.

  
\_\_\_\_\_  
LYNN ALLAN JENKINS  
Plaintiff

## **Exhibit “C”**

LYNN A. JENKINS I.,  
3 East 2750 South  
Bountiful, Utah 84010  
Telephone: (801) 299-1513

Plaintiff pro se.

---

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT IN AND FOR  
DAVIS COUNTY, STATE OF UTAH


---

LYNN ALLAN JENKINS,	)	
	)	
Plaintiffs,	)	<b>MOTION TO STRIKE THE MOTION TO</b>
	)	<b>DISMISS OF HON. A. LYNN PAYNE</b>
vs.	)	
	)	
ALBERT "LYNN" PAYNE, DAVID	)	
YOUNG PAYNE, UTAH STATE BAR,	)	
NORTH SALT LAKE CITY, DAVIS	)	Civil No. 970700315 CN
COUNTY and UINTAH COUNTY.	)	
	)	Judge Rodney S. Page
Defendants.	)	

---

Plaintiff Lynn A. Jenkins I., *pro se*, moves the court to Strike the Motion to Dismiss filed in this matter on or about August 25, 1997 by the Honorable A. Lynn Payne. Plaintiff did not bring this cause of action against the Judge in his official capacity nor the Eighth Judicial District Court in and for Uintah County but Albert "Lynn" Payne the individual.

Dated this 4<sup>th</sup> day of September, 1997.

  
\_\_\_\_\_  
LYNN A. JENKINS I., *pro se*,  
Plaintiff

CERTIFICATE OF HAND DELIVERY

I hereby certify that on this 4<sup>th</sup> day of September, 1997, I delivered a true and correct copy of the foregoing MOTION TO STRIKE THE MOTION TO DISMISS OF HON. A. LYNN PAYNE to the following:

Davis County Attorney  
Melvin C. Wilson Esq.  
Gerald E. Hess Esq.  
Gary O. McKean  
Davis County Courthouse  
Box 618  
Farmington UT 84025

Brent M. Johnson Esq.  
Administrative Office of the Court  
230 South 500 East Ste. 300  
Salt Lake City, UT 84102

Kent L. Christiansen Esq.  
448 East 400 South Ste. 301  
Salt Lake City, UT 84111


North Salt Lake City  
20 South Highway 89  
North Salt Lake City, UT 84054

CERTIFICATE OF SERVICE

I hereby certify that on this 4<sup>th</sup> day of September, 1997, I caused a true and correct copy of the foregoing MOTION TO STRIKE THE MOTION TO DISMISS OF HON. A. LYNN PAYNE to be placed with the US Postal Service, postage prepaid first class or hand delivered to:

A. Lynn Payne Esq.  
13625 North Dryfork Canyon  
Vernal UT 84078

Kenneth R. Wallentine Esq.  
Chief Deputy Uintah County Attorney  
152 East 100 North  
Vernal, UT 94078



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**SECOND JUDICIAL DISTRICT COURT OF DAVIS COUNTY  
STATE OF UTAH  
FARMINGTON DEPARTMENT**

<p>LYNN ALLAN JENKINS ,  Plaintiff(s),  vs.  ALBERT "LYNN" PAYNE, DAVID YOUNG PAYNE, UTAH STATE BAR, NORTH SALT LAKE CITY, DAVIS COUNTY and UINTAH COUNTY, Defendant(s).</p>	<p style="text-align:center"><b>RULING ON DEFENDANT A. LYNN PAYNE'S MOTION TO DISMISS</b></p> <p style="text-align:center">Case No. 9707000315</p> <p style="text-align:center">Rodney S. Page, Judge</p>
--	---

Comes now the Court and having reviewed Honorable A. Lynn Payne's Motion to Dismiss and Memorandum submitted in opposition thereto and the Pleadings herein and being fully advised in the premises, the Court hereby rules as follows:

It appears to the Court that all actions of the Honorable Judge Payne complained of by the Plaintiff in his Complaint were done in his capacity as a District Court Judge.

Under Federal and State Law, judges are absolutely immune from liability for all acts done in their judicial capacity.

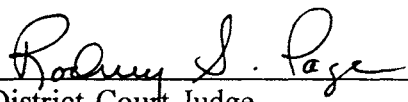
The Court further concludes that this Court has no authority to interfere with any of the rulings or orders of Judge Payne handed down, in Plaintiff's case which is presently pending, in Uintah County.

Therefore, the Court concludes that based upon the principal of Judicial Immunity and the Doctrine of "Law of the Case", Plaintiff's Complaint fails to state the cause of action against the Honorable A. Lynn Payne, and Plaintiff's Complaint against him is hereby dismissed.

Counsel for the Honorable A. Lynn Payne is to prepare Findings and Judgment in accordance with the Court's Ruling and submit the same to counsel and party at least five days prior to the time it is submitted to the Court for signature.

Dated this 19<sup>th</sup> day of September, 1997.

By the Court:

  
\_\_\_\_\_  
District Court Judge

CERTIFICATE OF MAILING

I , the undersigned, do hereby certify that I mailed a true and correct copy of the foregoing Ruling on Defendant A. Lynn Payne's Motion to Dismiss, postage prepaid, to the following:

Lynn Allan Jenkins  
3 East 2750 South  
Bountiful, UT 84010

Mr. Brent M. Johnson  
Administrative Office of the Courts  
230 South 500 East, Suite 300  
Salt Lake City, UT 84102

Mr. Melvin C. Wilson  
Davis County Attorney  
P. O. Box 618  
Farmington, UT 84025

Mr. Kenneth R. Wallentine  
Deputy Uintah County Attorney  
152 East 100 North  
Vernal, UT 84078

Dated this 22 day of September, 1997.

  
\_\_\_\_\_  
Clerk/ Deputy Clerk

Brent M. Johnson (5495)  
Attorney For Honorable A. Lynn Payne  
Administrative Office of the Courts  
230 South 500 East, Ste. 300  
Salt Lake City, Utah 84102  
Phone (801)578-3800

---

**SECOND DISTRICT COURT**

**DAVIS COUNTY, STATE OF UTAH**

---

LYNN ALLAN JENKINS,	)	<b>MOTION TO DISMISS</b>
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
HONORABLE A. LYNN PAYNE, et al.,	)	Civil No. 970700315
	)	
Defendant.	)	

---

Defendant Judge A. Lynn Payne, by and through counsel Brent M. Johnson of the Administrative Office of the Courts, moves this court to dismiss Plaintiff's complaint pursuant to Rule 12(b)(6), Utah Rules of Civil Procedure, for failure to state a claim upon which relief can be granted. The grounds for this motion are that Defendant is entitled to absolute judicial immunity, this court may not overrule decisions of the Eighth District Court and Plaintiff has failed to state a cognizable claim. This motion is supported by an accompanying memorandum of facts, points and authorities.



DATED this 25<sup>th</sup> day of August, 1997.



Brent M. Johnson, Attorney For  
Honorable A. Lynn Payne

### CERTIFICATE OF MAILING

This is to certify that a true and correct copy of the foregoing Motion to Dismiss was mailed first class, postage prepaid, and addressed as follows on this 25<sup>th</sup> day of August, 1997.

Lynn Allan Jenkins I.  
Three East 2750 South  
Bountiful, Utah 84010



Brent M. Johnson

Payne has therefore been solely in the judge's judicial capacity and the complained of acts arise solely from the judge's performance of judicial functions. Judge Payne is therefore entitled to absolute judicial immunity. The appropriate remedy for Plaintiff would be in a direct appeal to an appellate court. Because Judge Payne is entitled to absolute judicial immunity, Plaintiff's complaint should be dismissed with prejudice.

## **II. The Law of the Case Doctrine Prevents Relief Against Judge Payne.**

Under the "law of the case" doctrine, "one district court judge cannot overrule another district court judge of equal authority." Mascaro v. Davis, 741 P.2d 938, 946 (Utah 1987). It is possible that Plaintiff's complaint could be construed as requesting some type of injunctive relief. In requesting injunctive relief, Plaintiff would be asking the Second District Court to order a jury trial or to order new scheduling of the case. The effect of such orders would be to overrule orders made by Judge Payne in the Eighth District Court. The law of the case doctrine prevents this court from granting such relief. Plaintiff's complaint should be dismissed with prejudice.

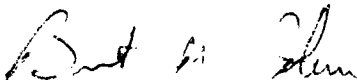
## **III. Plaintiff's Complaint Fails to State a Claim.**

In conjunction with the above arguments, Judge A. Lynn Payne asserts that the complaint fails to state a claim upon which relief may be granted. For purposes of this argument, Judge Payne assumes the facts of the complaint to be true. See Prows v. State, 822 P.2d 764 (Utah 1991). Even assuming that Judge Payne "ruled that Plaintiff was not entitled to a Jury Trial," and "that the State Bar picnic ... was more important than the Plaintiff's ... wedding anniversary," these allegations do not support relief in this court. There is no theory upon which relief can be granted, particularly

considering judicial immunity and the law of the case doctrine, and therefore the complaint should be dismissed with prejudice.

Because Judge Payne is entitled to absolute immunity, because one district court judge cannot overrule another district court judge, and because the allegations do not support relief, particularly when viewed in conjunction with the other defenses, Plaintiff's complaint should be dismissed with prejudice.

DATED this 25<sup>th</sup> day of August, 1997.

  
\_\_\_\_\_  
Brent M. Johnson, Attorney For  
Honorable A. Lynn Payne

#### MAILING CERTIFICATE

This is to certify that a true and correct copy of the foregoing Memorandum of Facts, Points and Authorities in Support of Motion to Dismiss was mailed first class, postage prepaid, and addressed as follows on this 25<sup>th</sup> day of August, 1997.

Lynn Allan Jenkins, I.  
Three East 2750 South  
Bountiful, Utah 84010

  
\_\_\_\_\_  
Brent M. Johnson

FILED IN CLERK'S OFFICE  
DAVIS COUNTY, UTAH

Oct 17 10 10 AM '97

CLERK, 2ND DIST. COURT

BY *[Signature]*  
DEPUTY CLERK

Brent M. Johnson (5495)  
Attorney For Honorable A. Lynn Payne  
Administrative Office of the Courts  
230 South 500 East, Suite 300  
Salt Lake City, Utah 84102  
Phone:(801)578-3800

---

**SECOND DISTRICT COURT  
DAVIS COUNTY, STATE OF UTAH**

---

LYNN ALLAN JENKINS, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
HONORABLE A. LYNN PAYNE, et al. )  
 )  
Defendant. )  
 )

**ORDER**

Civil No. 970700315 CN

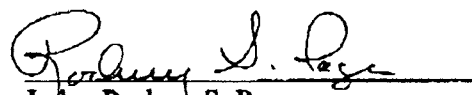
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The court having reviewed Defendant Judge A. Lynn Payne's motion to dismiss and memorandum in support, along with the documents opposing that motion, the court concludes that plaintiff's complaint fails to state a cause of action against Defendant Judge A. Lynn Payne. Defendant Judge A. Lynn Payne is absolutely immune for liability under the principal of judicial immunity and the "law of the case" doctrine prevents any actions by this court concerning Defendant Judge A. Lynn Payne's rulings.

**IT IS THEREFORE HEREBY ORDERED** that plaintiff's complaint against Defendant Judge A. Lynn Payne is dismissed with prejudice.


1246

DATED this 16<sup>th</sup> day of October, 1997.

  
\_\_\_\_\_  
Judge Rodney S. Page,  
District Court Judge

**MAILING CERTIFICATE**

This is to certify that a true and correct copy of the foregoing Order was mailed first class,  
postage prepaid, and addressed as follows on this 1<sup>st</sup> day of October, 1997.

  
\_\_\_\_\_  
Brent Johnson

FILED IN CLERK'S OFFICE  
DAVIS COUNTY, UTAH

OCT 17 10 10 AM '97

CLERK, 2ND DIST. COURT  
BY *Law*  
COUNTY CLERK

Brent M. Johnson (5495)  
Attorney For Honorable A. Lynn Payne  
Administrative Office of the Courts  
230 South 500 East, Suite 300  
Salt Lake City, Utah 84102  
Phone: (801)578-3800

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**SECOND DISTRICT COURT  
DAVIS COUNTY, STATE OF UTAH**

---

LYNN ALLAN JENKINS,	)	<b>FINDINGS OF FACT AND CONCLUSIONS</b>
	)	<b>OF LAW</b>
Plaintiff,	)	
	)	
vs.	)	
	)	
HONORABLE A. LYNN PAYNE, et al.	)	Civil No. 970700315 CN
	)	
Defendant.	)	

---

The court having reviewed Defendant Judge A. Lynn Payne's motion to dismiss and documents filed in opposition and having found the motion to dismiss to be well supported, the court makes the following findings of fact and conclusions of law.

**Findings of Fact**


1. Plaintiff has complained of a ruling by Defendant Judge A. Lynn Payne in which plaintiff was allegedly denied a jury trial.
2. Plaintiff has also complained of a ruling by Defendant Judge A. Lynn Payne which allegedly stated that a Bar picnic was more important than Plaintiff's wedding anniversary.
3. The acts complained of by Plaintiff were performed by Defendant Judge A. Lynn

Payne in his judicial capacity.

**Conclusions of Law**

1. Judges are absolutely immune from liability for all acts done in their judicial capacity.
2. A district court may not overrule the acts of another district court, under the "law of the case" doctrine.
3. Based upon the principal of judicial immunity and the "law of the case" doctrine, plaintiff's complaint fails to state a cause of action against Defendant Judge A. Lynn Payne and plaintiff's complaint against Defendant Judge A. Lynn Payne shall be dismissed.

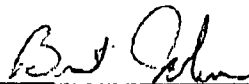
DATED this 16<sup>th</sup> day of October, 1997.

  
\_\_\_\_\_  
Judge Rodney S. Page,  
District Court Judge

**Mailing Certificate**

This is to certify that a true and correct copy of the foregoing Findings of Fact and Conclusions of Law was mailed first class, postage prepaid, and addressed as follows on this 7<sup>th</sup> day of October, 1997.

Lynn A. Jenkins  
3 East 2750 South  
Bountiful, Utah 84010

  
\_\_\_\_\_  
Brent Johnson