

1990

Lewis Duncan, individually and as personal  
representative of the Estate of PATRICK  
DUNCAN, deceased, et al, v. Union Pacific  
Railroad Company, the State of Utah, Paul  
Kleinman : Unknown

Utah Supreme Court

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UTAH SUPREME COURT

BRIEF

900233

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Geoffrey J. Butler  
Clerk of the Court  
Utah Supreme Court  
332 State Capital Building  
Salt Lake City, Utah 84114

Clerk Supreme Court Utah

Re: Duncan v. Union Pacific Railroad Company - Case  
No. 900233

Dear Mr. Butler:

This correspondence is submitted in reply to the supplemental filing of the Union Pacific Railroad dated March 27, 1991 with attached copy of Conner v. Missouri Pacific Railroad Company, Case No. 90-C-562-E (N.D. Okla. 1991).

Briefly, Rule 24(j), Utah Rules of Appellate Procedure provides for the filing of a supplement if the authorities are "pertinent and significant." In our instance, Conner is redundant and merely repetitive of authority cited in Respondent Railroad's brief. Furthermore, to the extent that Conner might be considered by the Court, it should be accorded little weight as it rejects the only two Federal Circuit Court opinions on the question of preemption, Karl v. Burlington Northern Railroad Company and Marshall v. Burlington Northern, Inc., both discussed extensively in prior Briefs.

Based on the foregoing, Appellants respectfully urge the Court to reject the supplemental filing.

Very truly yours,

BURBIDGE & MITCHELL

  
Michael A. Katz

MAK/aw

cc J. Clare Williams, Esq.  
Allan L. Larson, Esq.  
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