

1967

Stanley J. Ranquist, Dba Mobile Sheet Metal
Company v. Bechtel Corporation, a Corporation,
Dorland Construction Company, a Corporation,
and Elwood C. Dorland, as an Individual and as an
Agent : Appellant's Brief

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**IN THE SUPREME COURT
OF THE STATE OF UTAH**

STANLEY J. RANQUIST, dba
MOBILE SHEET METAL COMPANY,
Plaintiff and Appellant

vs.

BECHTEL CORPORATION, a
corporation, DORLAND
CONSTRUCTION COMPANY,
a corporation, and
ELWOOD C. DORLAND, as an
individual and as an agent,
Defendants and Respondents

Case No.

~~142190-~~

11049

APPELLANT'S BRIEF

Appeal from the Judgement entered by
The Third District Court, Salt Lake County,
State of Utah
Honorable Stewart M. Hanson, Judge

STANLEY J. RANQUIST
4948 Poplar St.
Salt Lake City, Utah
Plaintiff and Appellant

ROBERT E. BAYLE
1105 Continental Bank Bldg.
Salt Lake City, Utah
*Attorney for Defendant
and Respondent*

FILED

NOV 10 1967

Clerk, Supreme Court, Utah

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BRIEF OF APPELLANT

STATEMENT OF CASE

A summary of the causes of action.

1. Breach of contract against Dorland Construction Co. and settled.
2. Arbitrary and unreasonable request by Bechtel Corp. caused plaintiff additional costs and expenses.
3. Bechtel Corp. maliciously issued, published and sent false and libelous letters which caused breach of contract and injured plaintiff in his business trade and reputation.
4. and 5. Settled and dismissed.

DISPOSITION IN LOWER COURT

A judgement and order of dismissal with prejudice in favor of the defendants by Stewart M. Hanson. The court records show the reasons as; 1. Lack of diligence in prosecution and 2. Conditional privilege. A motion for a new trial together with statement of facts and proof of statement of facts was denied by Stewart M. Hanson.

RELIEF SOUGHT ON APPEAL

The plaintiff, Stanley J. Ranquist, requests a reversal of Stewart M. Hansons' judgement on any one or all of the following grounds.

That plaintiff requested trial by jury and the proceedings upon which judgement was granted was an attempt to circumvent this request and therefor, is reversible error.

That the court did not find upon all material issues and failure to do so is reversible error.

That the reasons for judgement listed in the court records are not proper reasons according to Utah law and therefor, is reversible error.

STATEMENT OF FACTS

The September 28, 1967 motion for a new trial together with statement of facts and proof of statement of facts and exhibits is submitted here in its entirety.

ARGUMENT

POINT I

The plaintiff requested trial by jury as proved by the May 22, 1963 entry in the official court record of pro-

ceedings and a copy of this is included with this appeal. The right of trial by jury is preserved by Rule 38 of the Utah Code of Civil Procedure and is a fundamental principle and concept of our American way of life and needs to be preserved. I hesitate to contemplate the chaos and strife which would follow if this right is trampled upon or removed from our judicial system. The proceedings upon which judgement was granted were an attempt to circumvent this request. This is grounds for reversible error.

POINT II

The court did not find upon all material issues and failure to do so is reversible error. Rule 52 A of the Utah Code of Civil Procedure states:

“It is the duty of the trial court to find upon all material issues and failure to do so is reversible error.”

“Findings must respond to and cover all of the material issues raised by the pleadings whether evidence respecting them was or was not adduced.”

Piper v Hatch 86 U 292, 43P 2d 700

Simper v Brown 74 U 178-186 278P 529

Piper v Eakle 78 U 342-344 2P 909

A reading of the complaint and the judgement is all that is necessary to find that the court did not find upon all material issues. But the following is given to elaborate on this. The judgement states “the court having considered the evidence to be adduced by plaintiff at any trial in this action.” This is an incorrect statement. Only those items which could be construed and misread so as to be detrimental to the plaintiff were opened and published.

The plaintiff submits its September 12, 1967 motion for a new trial, statement of facts, proof of statement of facts, and affidavits, which is a partial summary of the favorable evidence in this complaint, as proof of the falsity of this statement in the judgement. This is reversible error.

Further proof of the falsity of this statement is the first cause of action in the complaint. This was for breach of contract against Dorland Construction Co. for \$2,777.44. Dorland has paid the plaintiff the sum of \$3,000.00 for settlement of this, and this proves justification for the complaint. This shows reversible error.

Further proof of the falsity of this statement is the size of the file, the refusal of answers to interogitories, and the legal manuevering by the defendants to avoid a jury trial. This shows reversible error.

POINT III

The reasons for judgement listed in the court record of proceedings are not proper reasons according to law. These reasons are: 1. Lack of diligence in prosecution.
2. Conditional privilege.

Rule 41, dismissal of actions, of the Utah Code of Civil Procedure states the following decisions under former law.

“As defendant has the same right to press action to trial as plaintiff, defendant cannot complain of overruling of his motions to dismiss for plaintiffs failure

and neglect to prosecute said action, especially in the absence of any showing of prejudice.”

Therefor, lack of diligence is not proper grounds for a dismissal of action or judgement in favor of the defendant and this is reversible error.

Conditional privilege, according to the Utah Code on Civil Procedure, includes only the following people: husband-wife; attorney-client; clergyman or priest-person in confessional; physician, surgeon-patient; public officer divulging facts contrary to public interest. The defendants cannot possibly fit into any of these professions, therefor, conditional privilege is not proper grounds for dismissal of action or judgement in favor of the defendant and this is reversible error.

Also, it is a matter of law that privilege is lost if the author goes out of his way to defame and also if malice is shown or inferred. All of this is shown in the letters offered as exhibits. Therefor conditional privilege is not proper ground and this is reversible error.

CONCLUSION

The plaintiff, and author of this appeal, was woefully ignorant of judicial matters, practices, and procedures until the undertaking of a motion for a new trial and this appeal. The right of a grievously wronged individual to seek a jury trial and compensation for the wrong is a cornerstone of our freedom. The malicious acts leading to this suit and the judgement in favor of the defendants

coupled with the knowledge of law and civil procedure absorbed in order to bring this appeal, has caused me to seriously question our judicial system. I hope you can help restore my faith to its former level.

Respectfully submitted,

STANLEY J. RANQUIST
4948 Poplar St.
Salt Lake City, Utah 84107
Plaintiff and Appellant

CERTIFICATE OF MAILING

Mailed two copies of the foregoing to Robert F. Bayle, Attorney for the Defendants at 1105 Continental Bank Bldg., Salt Lake City, Utah.

/s/ STANLEY J. RANQUIST