

1968

J. Seal v. Leslie Lefevre : Brief of Respondent

Follow this and additional works at: https://digitalcommons.law.byu.edu/uofu_sc2

Original Brief submitted to the Utah Supreme Court; funding for digitization provided by the Institute of Museum and Library Services through the Library Services and Technology Act, administered by the Utah State Library, and sponsored by the S.J. Quinney Law Library; machine-generated OCR, may contain errors. Ken Chamberlain; Attorneys for Respondents

Recommended Citation

Brief of Respondent, *Seal v. LeFevre*, No. 11307 (1968).
https://digitalcommons.law.byu.edu/uofu_sc2/3442

This Brief of Respondent is brought to you for free and open access by BYU Law Digital Commons. It has been accepted for inclusion in Utah Supreme Court Briefs (1965 –) by an authorized administrator of BYU Law Digital Commons. For more information, please contact hunterlawlibrary@byu.edu.

In the
Supreme Court of the State of Utah

J. SEAL,

Plaintiff and Appellant,

- VS -

LESLIE LEFEVRE, ET AL.,

Defendants and Respondents.

BRIEF OF RESPONSE

Appeal from the Judgment of the District Court
of Garfield County, State of Utah
Honorable Ferdinand Erickson
District Judge

KEN CHAMBERLAIN
OLSEN AND CHAMBERLAIN
Richfield, Utah
Attorneys for Respondents

HAROLD A. RANQUIST and
DAVID A. GOODWILL
330 East Fourth South Street
Salt Lake City, Utah

Attorneys for Appellant

FILED
NOV 18 1954

Clerk, Supreme Court

INDEX

	Page
NATURE OF THE CASE	1
DISPOSITION IN THE LOWER COURT	1
STATEMENT OF FACTS	1-4
ARGUMENT	4-6
POINT I:	
AN ATTORNEY CANNOT RECOVER LE- GAL FEES FOR BEING INSTRUMENTAL IN ESTABLISHING A B E N E F I C I A L PRECEDENT	4-6

TEXTS CITED

American Jurisprudence, 2nd Series, Vol. 7, p. 166.....	6
Corpus Juris Secundum, Vol. 7, p. 1041, 1052	6

In the Supreme Court of the State of Utah

J. SEAL,

Plaintiff and Appellant,

- vs -

LESLIE LEFEVRE, ET AL.,

Defendants and Respondents.

} Case No.
11307

BRIEF OF RESPONDENTS

NATURE OF THE CASE

This is an action by the purported assignee of Harold A. Ranquist to recover fees the assignor claimed were owed to him, under an implied contract, by individual holders of Bureau of Land Management grazing permits.

DISPOSITION IN THE LOWER COURT

Plaintiff (R. 26) and Defendants (R. 12) each moved for a Summary Judgment. The Defendants' Motion was granted.

STATEMENT OF FACTS

Defendants moved for a Summary Judgment with Affidavits, (partially countered by Plaintiff) Interroga-

tories and Demands for Admission. The facts not effectively contradicted by the Plaintiff are as follows:

Mr. Ranquist was working on a Bureau of Land Management grazing dispute for clients — the Chynoweths — who had retained him under an express contract (R. 18, 27). There was never any express contract between the Defendants and Mr. Ranquist, Plaintiff's assignor (R. 18).

One of Mr. Ranquist's clients was a Mr. Jack Chynoweth who also acted as chairman of a cattlemen's association or a committee of grazers. There is no allegation that any of the Defendants were members of any association or particularly the association which Jack Chynoweth purported to represent. Mr. Chynoweth invited all permittees in Eastern Kane and Garfield Counties to attend a meeting (R. 28), giving notice to these grazers that problems critical to their permits would be dealt with. The Defendants were not aware of any particular dispute they had with the Bureau of Land Management as, in Mr. Ranquist's words (R. 29):

Each of the Defendants [in this case] were advised in several written communications of the existence of the problems and how they effected each permittee in the entire district. They were invited to participate in the meetings that were to be held to achieve a solution to these problems

* * *

Most of the Defendants did not attend any meetings (R. 69, 70).

At the time of these communications from Mr. Ranquist and the meetings which he held there were proceedings pending contesting certain action of the Bureau of Land Management but the only parties named were Mr. Ranquist's contractual clients (R. 60, 61).

Mr. Ranquist and his retainer client, Mr. Chynoweth, sent a card under the name of Mr. Chynoweth as chairman of an association asking the cattlemen to note their acceptance of a contract to retain the service of Mr. Ranquist (R. 72 and card attached to R. 54). This card purported to be to members of an association although there is neither an allegation or a showing that any of Defendants were members of that association or any group represented by Mr. Chynoweth.¹ None of the Defendants returned the card (R. 48 and 87).

All of Mr. Ranquist's services were necessarily performed under his retainer for the Chynoweths. He reported the conclusion of the disputes as follows:

A settlement has been reached in the Chynoweth cases (R. 58, 66).

The committee which Mr. Chynoweth claimed to represent invited all these Defendants to attend ^athe meeting to formulate agreements with the BLM (R. 58). None of the Defendants attended (R. 18-25).

¹Mr. Ranquist later sought to join as additional defendants two cattlemen's associations (R. 78-81), one in Kane and one in Garfield County. These defendants are all residents of Garfield County (R.1).

Mr. Ranquist in his affidavit states that Mr. Chynoweth agreed to collect his fees as dues from members of the association (R. 28, 84).

The Defendants do not know of any benefit they may have received as a result of the conclusion reached by Mr. Ranquist in his representation of the Chynoweth clients (R. 19, et seq.) and if any benefit were received it could only have been as a precedent.

Undoubtedly some of the Defendants, because of the slight amount claimed, paid Mr. Ranquist. He filed actions against two groups, those in Kane County (R. 31, 32; 73, 74) and those in Garfield County (R. 1).

Some of the Defendants filed answers *pro se* (R. 9, 10, and 11).

ARGUMENT

POINT I.

AN ATTORNEY CANNOT RECOVER LEGAL FEES FOR BEING INSTRUMENTAL IN ESTABLISHING A BENEFICIAL PRECEDENT.

We are unable to find a case in which it has been held that benefits which flow from a favorable legal precedent require payment, by those who may receive beneficial results by application of the precedent, of fees for its establishment.

Mr. Ranquist apparently believed in good faith that all the cattlemen had a problem with the Bureau of Land

Management common to that one he was controverting for his clients, the Chynoweths. Sensing this, he and Mr. Chynoweth assessed an arbitrarily established fee on all cattlemen who held a government permit and Mr. Chynoweth agreed, as an officer of his association, to collect it (R. 28).

Nothing in the files shows that any of these Defendants were ever made parties to any proceeding or contest before the Bureau of Land Management (R. 60, 61).

That Mr. Ranquist's efforts, if they benefited these Defendants at all, served only the office of a precedent is established by an ex parte memorandum, which Mr. Ranquist circulated to all of those whom he claimed owed a portion of his fee, referring to a meeting he had held with BLM officials (R. 62-65). In setting out an agreed statement of policy, Mr. Ranquist states (R. 63, subpara. A2):

The program for placing this policy into effect will be adopted first with the Chynoweth Brothers in connection with their appeal and then by each of the other permittees in the District.

At page 64 of the record beginning with the third paragraph Mr. Ranquist states:

This policy will be applied first to the Chynoweth Brothers then to McKay Bailey, and then to each and every permittee whose application was not made out in strict accordance with the provisions of [applicable BLM regulations].

An attorney cannot legally claim compensation for incidental benefits and advantages to one flowing to the latter on account of services rendered to another by whom the attorney may have been employed (7 CJS 1041, Attorney and Client, Section 175). Where no additional services by the attorney are contemplated in the agreement for additional fees, it is ordinarily held without consideration and invalid (7 CJS Page 1052, Attorney and Client, Section 181).

In Volume 7 Am Jur2d, Page 166, Attorneys at Law, Section 205, it is stated:

The mere fact that the services an attorney renders for his client are beneficial to other parties does not entitle the attorney to recover any compensation from those benefited nor is the client who engaged the attorney and paid his fees entitled to recover a proportionate share of the attorney's fees from those who received a benefit from the services. To escape liability the benefited parties need not inform the attorney that they deny liability.

We respectfully urge that the Judgment of the trial court be affirmed.

Respectfully submitted,

OLSEN AND CHAMBERLAIN
By Ken Chamberlain
Attorneys for Respondents