

2004

George M. Lee and Gerald Lee v. Miles Walter Langley : Reply Brief

Utah Court of Appeals

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Julianne P. Blanch; Snow, Christensen and Martineau; Attorney for Appellee; Robert Thorpe; Pro Se.

Gregory J. Sanders; Kipp and Christian; Attorney for Appellants.

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IN THE UTAH COURT OF APPEALS

GEORGE M. LEE and GERALD LEE, :

Plaintiffs and Appellants, :

vs. :

MILES WALTER LANGLEY, :

Case No. 20040308-CA

Defendant, :

**ROBERT P. THORPE, and THE
RANGER INSURANCE COMPANY, :**

**Defendants and
Appellees. :**

:

REPLY BRIEF OF APPELLANTS

**Appeal from Eighth District Court, Uintah County
Judge A. Lynn Payne**

**Julianne P. Blanch
SNOW CHRISTENSEN & MARTINEAU
10 Exchange Place, Suite 1100
Salt Lake City, UT 84111
Attorney for Appellee
Telephone: (801) 521-9000**

**Gregory J. Sanders, USB 2858
KIPP AND CHRISTIAN, P.C.
10 Exchange Place, Fourth Floor
Salt Lake City, Utah 84111
Attorneys for Appellants
Telephone: (801) 521-3773**

**Robert Thorpe, *Pro Se*
3047½ A½ Road
Grand Junction, CO 81503**

**Oral Argument and Published Decision
Requested**
FILED
UTAH APPELLATE COURTS
MAR 01 2005

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10 Exchange Place, Suite 1100
Salt Lake City, UT 84111
Attorney for Appellee
Telephone: (801) 521-9000**

**Gregory J. Sanders, USB 2858
KIPP AND CHRISTIAN, P.C.
10 Exchange Place, Fourth Floor
Salt Lake City, Utah 84111
Attorneys for Appellants
Telephone: (801) 521-3773**

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ARGUMENT

I. INTRODUCTION

Appellants believe that the issues presented are well framed by the primary briefs and do not attempt herein to simply repeat what has already been stated. The purpose of this Reply Brief is to point out the errors of analysis made by the Ranger Insurance Company.

The Appellee brief makes a very fundamental error which is actually the same error made at trial. The error becomes the foundation for going off in a wrong direction on all of the analysis made. That error is the assumption that there is legal authority to make an arrest in Miles Langley in Utah. Once that error is understood, that there needs be a reversal of the trial result becomes beyond dispute.

II. NO LEGAL AUTHORITY FOR ARREST EXISTED

A. Utah Law Controls.

Ranger Insurance Company first argues that Gerald Lee could not be apprehended by Langley defies common sense, common law, and contractual agreements. Ranger reaches that conclusion only by ignoring the established framework of law.

Ranger argues two legal basis for apprehending Gerald Lee. The first is the alleged common law right of *Taylor v. Taintor*, 83 U.S. 366 (1872) which has been exhaustively discussed in the Lees primary brief. Lees again rely upon that discussion and simply point

out to the court that Ranger fails to produce any authority rebutting the fact that where a state scheme regulating arrest by bondsmen is in place, the *Taylor* case has been found to be inapplicable. In short, there is no source of authority for Langley coming from Colorado to do an arrest in Utah under common law.

Second, Ranger makes a curious argument that because Gerald Lee agreed in a contract that he could be arrested by agents of the bond surety that legal authority existed for that arrest in Utah by the Colorado agent. Ranger tries to make a negative argument. That is, they argue because there is no Utah statute that says one cannot arrest from out-of-state on a contract that it must be legal. Ranger simply ignores Section 53-11-107(2) which prohibits anyone acting as a bail recovery agent in Utah without having a license. That is made a crime in Section 53-11-124.

What Ranger argues is that if two people make a bail contract in another state, that contract overrides Utah law making it a crime for persons not licensed by Utah to make a bail apprehension. Virtually no authority whatsoever exists for such a proposition. In fact, it is Ranger that abandons common sense in making this analysis. The common sense approach would be for Ranger Insurance Company to hire in Utah a licensed bail enforcement agent rather than allow somebody to come from another state without a license and then claim they

are somehow above Utah law. This Court should reject the argument completely simply by applying the plain language of Title 53, Chapter 11.

Mention should be made about the brief statement that Lees failed to marshal the evidence on the contractual basis for apprehension. This argument is a complete misapplication of the requirement that a party marshal the evidence on appeal. The requirement to marshal is directed to challenges concerning factual findings of the trial court. *Reddish v. Russell*, 2005 Ut. App. 84 (February 25, 2005). This argument is inapplicable because there is no issue of factual finding. Lees do not deny that the bail bond contract was entered and it says what it says. What is at issue is the legal operation of that contract as to whether it somehow trumps Utah law on the requirement that a bail enforcement agent have a Utah license. There is no need to marshal the evidence on the requirement that a bail enforcement agent have a Utah license.

B. This Issue Was Preserved.

Ranger argues to the court that the error of the trial court in determining the law of arrest was not properly preserved for appeal. An examination of the record shows that the issue was talked about from the very beginning of the trial and addressed repeatedly throughout the trial. Eventually, jury instructions were given in the context of rejecting

instructions proposed by the Plaintiffs and over the objection of Plaintiffs' counsel to certain other objections.

Specifically, the issue of the authority of a Colorado agent to arrest in Utah came up at the beginning of the trial and was actively discussed with the court as shown at Record, page 1187, at pp. 4-12, 20-31. The actual ruling over the Plaintiffs' objection is found on page 31 of the transcript.

The District Court then indicated as part of a discussion on a motion brought by the defense during the course of the trial that it intended to give jury instructions to allow the jury to decide the legal authority to make an arrest. Again, this was done over the objection of Plaintiffs' counsel. Record, page 1187 at pp. 213-238.

The court conducted the trial under the assumption that Langley did have legal authority to make an arrest in Utah but did reserve additional discussion in connection with jury instructions. Transcript, p. 238 at R., p. 1187. Plaintiffs' counsel stated on the record that there had been issues about jury instructions discussed in chambers that had to be placed on the record but the trial court again deferred that. Transcript, p. 181 at R., p. 1187. That discussion took place commencing at transcript page 243 through 248.

A reading of the extensive repeated discussions between court and counsel on this topic show that what happened was that Plaintiffs' counsel always took the position that there

was no legal authority for a Colorado bail recovery agent to make an arrest in Utah and the court was on the wrong track. Ultimately, counsel conceded that if the court's view was to be the law of the case then the instructions the court was going to give were appropriate while reserving the objections to the whole direction of where arrest authority had gone. *See* trial transcript pages 213-238, 291-295.

Plaintiffs' counsel was so concerned the trial was headed in the wrong direction on the issue of arrest authority that a trial memorandum was submitted specifically on that point on the second day of trial. Record, p. 980. That the issue of arrest authority was not a matter of vigorous contention and objection with the court ultimately instructing contrary to the law cannot be seriously argued.

The use of the term "exception" to the jury instruction by Ranger is not well taken as Rule 46, Utah Rules of Civil Procedure, specifically state that an "exception" is no longer necessary and that simply making an objection is sufficient to preserve a point for appeal.

C. Arrest Authority Was Relevant to Assault.

Ranger makes a brief argument that the legal authority to apprehend Mr. Lee was not relevant to the jury verdict concerning the assault or reckless endangerment resulting in harmless error. That position is absolutely wrong.

An assault is defined in Utah criminal law in Section 76-5-102 as an attempt, with **unlawful** force or violence, to do bodily injury to another. Utah's civil law has similarly held that the unlawful nature of the act is an element of assault in torts. *See Banks v. Shivers*, 432 P.2d 339 (Utah 1967). The court there makes reference to Restatement of Torts (2d), Section 21, which says an act of assault must not be "privileged". The official comment to that section defines privileged as allowed by law.

Put simply, that the contact between Langley and the Lees be unlawful is extraordinarily important for consideration as it constitutes an element of the tort of assault.

Similarly, the Lees' claim for negligence or reckless endangerment has an element of breach of duty. The duty is found in the requirement that a bail enforcement agent be licensed in Utah to act. Once Langley is found to be without legal authority, his actions could be interpreted by a jury to be at least negligent. The relevance of the legal authority to act is the foundation of the claim of plaintiffs and the failure of the court to give proper instruction justifies reversal.

III. THE FALSE IMPRISONMENT CLAIM SURVIVES

Ranger argues in its brief that since Lees "were unable to assemble evidence in their case that Mr. Langley falsely imprisoned them" that the claim against the Lees was appropriately dismissed.

The failure of this analysis is again rooted in the assumption of the legal authority. As has already been explained, a key element of false imprisonment is whether it was done without legal authority. Once the court concluded there was a common law or contract right to make an arrest in Utah on a Colorado warrant, then the false imprisonment claim had to fail. This demonstrates the very point Lees attempt to make on appeal that the conclusion of arrest authority took the court on a completely wrong road. Lees have no dispute with the concept that if Langley had arrest authority then the false imprisonment claim would fail. The error is in the conclusion of legal authority as has been analyzed exhaustively above.

A factual question exists as to whether George Lee, who was not a fugitive, was falsely imprisoned. The trial transcript reflects at Record, page 1187 at p. 214, that the court dismissed the false imprisonment claim with respect to George Lee based on the absence of evidence that he was falsely imprisoned. This was error on the court's part, setting aside issues of whether the arrest effort by Langley was even legal. A jury could have found that even George was falsely imprisoned under the appropriate legal standard. George's direct testimony, Record, page 1187 at pp. 188-197, shows that George Lee was in a place he had a right to be (his own home), and was restrained to that location by the acts of Miles Langley first knocking him unconscious and Langley then controlling the situation until police

arrived. While this situation is, admittedly, not an extended false imprisonment, the point remains that the court should not have taken this factual determination away from the jury.

As a general statement, dismissal is a “severe measure” and should be granted by the trial court only if it is clear that a party is not entitled to relief. *Colman v. Utah State Land Board*, 795 P.2d 622 (Utah 1990). What the court did in dismissing the George Lee false imprisonment claim is probably more appropriately labeled a Rule 50 directed verdict as it occurred at trial. A directed verdict is only appropriate where the court finds as a matter of law that reasonable minds would not differ on the facts to be determined from the evidence presented. *Management Committee of Graystone Pines Homeowner’s Association v. Graystone Pines, Inc.*, 652 P.2d 896 (Utah 1982). This Court has recently held that a directed verdict in a jury trial is appropriate only after a jury trial. *Grossen v. DeWitt*, 1999 Ut. App. 167, 982 P.2d 591. There was evidence available to allow the jury to decide whether false imprisonment of George Lee had taken place.

False imprisonment includes as an element that any exercise of force by which the other person is deprived of liberty or compelled to remain where he does not wish to remain is false imprisonment. *Hepworth v. Covey Bros. Amusement Company*, 91 P.2d 507 (Utah 1939). That George Lee was knocked unconscious under force in his own home can be construed factually as a false imprisonment but the jury never had an opportunity to get to

that question. With the Lee testimony before the jury, the court should have let them decide if both were falsely imprisoned, however brief.

IV. FAILURE TO DEFAULT WAS AN ABUSE OF DISCRETION

Ranger tries to construct an argument that a default in its favor of Robert Thorpe but not in favor of the Lees for the same failure to appear by Thorpe is somehow not an abuse of discretion.

Lees do not dispute that Ranger Insurance Company is entitled to a default of Robert Thorpe for failure to appear at trial. Where the trial court went wrong was not treating the Lees the same for the same acts by Robert Thorpe.

Ranger argues that the Lees would attempt to “abuse the default judgment” but fails to explain why any supposed abuse could not have been controlled at trial. The question of the effect of a default is entirely different from the question of whether a default should be entered in the first place. The fact remains, as explained in the primary brief, that Robert Thorpe was allowed to benefit repeatedly throughout the trial by his failure to appear. Certainly, if the court had refused to enter a default in favor of Ranger an argument could be made that the court exercised its discretion in fairness to all parties. The refusal to enter a default in favor of the Lees for the same acts justifying a default in favor of Ranger Insurance Company is uneven application of justice which should be rejected by this Court.

Passing mention should be made of the Ranger argument that the Lees failed to marshal facts concerning the denial of a request for default judgment. Ranger cites no authority for this argument because there is none. There is no legal requirement under principles of marshaling that an appellant explain why a judge ruled as he does. The legal analysis is what he ruled in the context of the trial. A party at trial has no power to force a judge to fully explain why he or she ruled in a certain way and certainly cannot be held to have somehow waived an appeal where a judge chose not to amplify sufficiently to satisfy the opposing party.

V. THE JUSTICE COURT TESTIMONY WAS ADMISSIBLE

Ranger tries again to argue the failure to admit Langley's testimony in justice court was hearsay. This issue has been adequately explained in the primary brief and is not analyzed again except to say there is no legal authority to support Ranger's argument that Langley had no reason to believe he was jeopardizing his self-interest under Rule 804(b)(3), URE. The fact is, he was admitting to a criminal act under Utah law and that is sufficient to qualify the statement under that rule.

Another incorrect argument is made by Ranger that excluding Langley's testimony in justice court was harmless. Ranger argues first that because the jury heard oral argument on the point to the trial judge that this Court should assume the jury considered the excluded

evidence as part of its deliberation. Again, there is no legal authority for such a proposition and it is contrary to common sense and good practice at trial. One cannot assume the jury made the decision on evidence that was not formally presented or else there would be no bounds to review of the decision.

Second, Ranger argues that the evidence was irrelevant and therefore harmless in exclusion because whether Langley was licensed in Utah had no legal importance. This point, exhaustively discussed in this appeal, demonstrates again how the error on arrest authority of the court permeates what happened at trial at every turn. Once the court found there was legal authority outside of the Utah statute requiring a license to act, the presentation of evidence leading to what the jury was instructed was on a wrong road. In fact, the lack of Utah license was important to show Langley was acting outside the law and committed the torts alleged.

VI. EXCLUSION OF THE RECEIPT WAS REVERSIBLE ERROR

Ranger argues that the court correctly excluded the receipt evidencing payment by Robert Thorpe to Miles Langley for the apprehension of Gerald Lee. Remember that this arose in the context that Ranger Insurance was presenting evidence, the testimony of Mrs. Thorpe, that Langley had never been hired or compensated to apprehend Lee. *See Addendum.*

The contrary evidence was deceased Langley's own deposition testimony that he had been hired to go get Lee. Maria Thorpe, by video deposition, testified no payment was made. The Lees attempted to introduce this receipt as absolute proof that she was testifying incorrectly. *See* Record, page 1187 at p. 39-45 and Addendum, Maria Thorpe Testimony.

Put in the context of the trial, what the jury had before it was (1) the statement of Langley that he was hired by Robert Thorpe, (2) a defaulting Robert Thorpe that was not there to be examined, and (3) an affirmative statement by Mrs. Thorpe, an admitted business partner of Robert, that the payment would never have taken place. The jury was denied the opportunity to see the handwritten document which conclusively established the payment took place and that Langley was compensated by Thorpe for the recovery of Lee. With Langley dead, Robert Thorpe willfully absent from the trial and a video presentation by Mrs. Thorpe, the impact of her testimony was very important and needed to be rebutted by the conclusive document which qualified for admission under the Rules of Evidence. Exclusion of the evidence broke the proof of chain of agency between Langley, Thorpe, and Ranger to the prejudice of Plaintiffs.

CONCLUSION

This whole appeal turns upon the question of the arrest authority of a Colorado bail recovery agent to enforce a Colorado warrant in Utah. Utah law is quite clear that bail

enforcement agents acting in Utah must have a Utah license. The trial court made a fundamental error at the beginning of the trial in finding that there was common law authority or even contractual authority to allow Miles Langley to arrest Gerald Lee. Plaintiffs' counsel made repeated objections to that approach throughout the trial to no avail.

The error in law by the trial court then had a cascading effect as other issues followed. That is, the false imprisonment claim of the Plaintiffs was dismissed. The court instructed the jury that if they believe there was lawful authority to arrest then the assault and negligence claim could be justified.

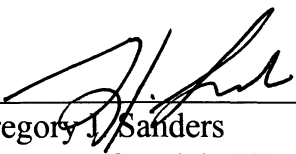
Even if this Court were to hold in favor of Ranger Insurance Company, the judgment should be reversed so as to allow entry of the default of Robert Thorpe. There was no factual or legal reason to distinguish entering a default in favor of Ranger Insurance Company but not in favor of the Plaintiffs. Robert Thorpe has continually received the benefit of his willful failure to participate in the proceedings even to being in default in this very appeal.

Finally, reversible error occurred when the evidence that Langley had no license to act as a bail agent in Utah was excluded and when the trial court excluded the written receipt of Robert Thorpe which conclusively showed that he had paid Langley to act in his behalf in capturing Gerald Lee.

This Court is respectfully requested to reverse the trial court and remand this case for a new trial consistent with the law of arrest by a bail enforcement agent.

DATED this 1st day of March, 2005.

KIPP AND CHRISTIAN, P.C.



Gregory J. Sanders
Attorneys for Plaintiffs and Appellants

ADDENDUM

Maria Thorpe testimony, R. p. 1187 at pp. 323-324 and deposition at pages 43-46.

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1	I N D E X	1	A P P E A R A N C E S
2		2	
3	EXAMINATION	3	
4	By Ms. Blanch	4	
5	By Mr. Sanders	5	GREGORY SANDERS
6		6	KIPP & CHRISTIAN
7		7	10 Exchange Place
8		8	Suite 400
9		9	Salt Lake City, Utah 84111,
0		10	
1		11	On Behalf of Plaintiff;
2		12	
3		13	
4	EXHIBITS (Marked for Identification)	14	
5	Exhibit 1	15	JULIANNE P. BLANCH
6	Exhibit 2	16	SNOW, CHRISTENSEN & MARTINEAU
7	Exhibit 3	17	10 Exchange Place
8	Exhibit 4	18	Eleventh Floor
9	Exhibit 5	19	Salt Lake City, Utah 84145,
0	Exhibit 6	20	
1		21	On Behalf of Defendant.
2		22	
3		23	
4		24	
5		25	

*** Notes ***

Page 4		Page 5	
1	The videotape deposition of MARIA E.	1	a.m.
2	THORPE, taken at the offices of Rusk & Rusk Court	2	Counsel will now identify themselves
3	Reporters, 751 Horizon Court, Suite 110, Grand	3	for the record.
4	Junction, Colorado 81506, on the 22nd day of	4	MS. BLANCH: Julianne Blanch for
5	December, 2003, at 9:53 o'clock a.m., before	5	Ranger Insurance Company.
6	Joppa H. Smith, Registered Professional Reporter	6	MR. SANDERS: Craig Sanders for the
7	and Notary Public at Large.	7	Plaintiffs.
8	* * *	8	THE VIDEOGRAPHER: Joppa Smith, the
9	THE VIDEOGRAPHER: Your Honor, ladies	9	court reporter, will now swear in the
0	and gentlemen, today is December the 22nd	10	deponent.
1	of 2003. The following deposition is being	11	* * *
2	videotaped by Esther Rusk of Rusk & Rusk	12	MARIA E. THORPE,
3	Court Reporters, at the conference room of	13	being produced and sworn, was examined and
4	their office at Skyline Building, 751	14	testified as follows:
5	Horizon Court, Suite 110, Grand Junction,	15	EXAMINATION
6	Colorado 81506, in the matter of George M.	16	BY MS. BLANCH:
7	Lee and Gerald Lee, Plaintiffs, versus	17	Q. This is Julianne Blanch. Mrs.
8	Miles Walter Langley, Robert P. Thorpe and	18	Thorpe, can you state your full name for the
9	The Ranger Insurance Company, Defendants,	19	record.
0	and filed in the Eighth Judicial District	20	A. It's Maria Elizabeth Thorpe.
1	of Uintah County, State of Utah, Civil No.	21	Q. Do you own a business named A-1 Bail
2	000800126. This deposition has been	22	Bonds?
3	noticed by the Defendants, The Ranger	23	A. Not currently, no.
4	Insurance Company. The deponent is Maria	24	Q. Did you in 1999?
5	Thorpe. The time is approximately 9:55	25	A. Yes.

*** Notes ***

<p style="text-align: right;">Page 42</p> <p>1 is that right?</p> <p>2 A. That's correct.</p> <p>3 Q. And that he was in jail?</p> <p>4 A. That's correct.</p> <p>5 Q. And at that point, because he was</p> <p>6 in jail, was it necessary for him to get a second</p> <p>7 bond?</p> <p>8 A. For his release, yes. Bob revoked</p> <p>9 the Mesa County bond, and then posted two bonds</p> <p>10 to secure his release on the new warrant</p> <p>11 amounts.</p> <p>12 Q. So when Gerald Lee came back to</p> <p>13 Colorado on April 3 of 1999, the first bond</p> <p>14 that we've been talking about, the one dated</p> <p>15 November 30, 1998, was revoked; is that right?</p> <p>16 A. The Rio Blanco bond was never</p> <p>17 revoked at the Mesa County Detention Facility.</p> <p>18 The Mesa County bond was revoked at the Mesa</p> <p>19 County Detention Facility. To my knowledge,</p> <p>20 he was remanded into custody on the Rio Blanco</p> <p>21 warrant, as well as the Mesa County warrant.</p> <p>22 Q. The second bond is in the amount of</p> <p>23 \$750, while the first one back in 1998 is in the</p> <p>24 amount of \$500.</p> <p>25 Why was the second bond more?</p>	<p style="text-align: right;">Page 43</p> <p>1 A. The judges usually elevate the</p> <p>2 amount that is required to -- for their release.</p> <p>3 Obviously a \$500 secured bond wasn't enough to</p> <p>4 warrant Mr. Lee to come back and take care of</p> <p>5 his court obligations, so by increasing that</p> <p>6 amount, the courts are trying to provide an</p> <p>7 additional incentive, financial incentive, that</p> <p>8 they'll return.</p> <p>9 Q. Okay. Does A-1 have any bail -- or</p> <p>10 did A-1 have any bail bondsmen as employees?</p> <p>11 A. No.</p> <p>12 Q. Were they independent contractors?</p> <p>13 A. They're what's called subagents.</p> <p>14 Q. It sounds like there were times when</p> <p>15 someone got a bond with A-1 Bail Bonds, they</p> <p>16 failed to appear, and you needed to go apprehend</p> <p>17 them.</p> <p>18 Sometimes it sounds like you would</p> <p>19 do it; is that right?</p> <p>20 A. Yes.</p> <p>21 Q. Would your husband ever do it?</p> <p>22 A. Sometimes.</p> <p>23 Q. And then sometimes you would hire</p> <p>24 these independent contractor bail bondsmen to do</p> <p>25 it?</p>
<p style="text-align: center;">*** Notes ***</p>	
<p style="text-align: right;">Page 44</p> <p>1 A. As far as I can remember, we've only</p> <p>2 hired one person as an independent bail recovery</p> <p>3 agent, James Julianno out of New Mexico, to</p> <p>4 apprehend somebody that was out of state.</p> <p>5 Actually, there's twice. I had a</p> <p>6 Kelly -- a defendant by the name of Kelly</p> <p>7 Bradbury that had fled on a plane, and she went</p> <p>8 to Arizona, and I contacted some bail agency</p> <p>9 in Arizona to meet her at the airport to</p> <p>10 detain her until I showed up and could bring her</p> <p>11 back.</p> <p>12 Q. Were there any bail agents or bail</p> <p>13 bondsmen that you hired inside of Colorado to</p> <p>14 apprehend someone inside of Colorado?</p> <p>15 A. No.</p> <p>16 Q. Okay. In the bail bonding industry,</p> <p>17 is it typical for a company like A-1 Bail Bonds,</p> <p>18 if they're going to hire an individual to go out</p> <p>19 and apprehend someone, just to hire them for a</p> <p>20 particular job?</p> <p>21 A. Can you say that again?</p> <p>22 Q. Sure. If someone like A-1 Bail</p> <p>23 Bonds needs to hire a bail bondsman to apprehend</p> <p>24 an individual, is it typical in the industry</p> <p>25 for them to hire them just for that particular</p>	<p style="text-align: right;">Page 45</p> <p>1 job?</p> <p>2 A. Yes.</p> <p>3 Q. When you used Mr. Julianno as an</p> <p>4 independent contractor bail bondsman, how did</p> <p>5 you pay him, how did you reimburse him for</p> <p>6 apprehending the individual?</p> <p>7 A. By check.</p> <p>8 Q. Do you understand that Mr. Langley</p> <p>9 has testified before in this case, he's given</p> <p>10 a deposition just like you have in this case?</p> <p>11 A. Yes.</p> <p>12 Q. It's my understanding that he</p> <p>13 passed away. Do you know whether he has either</p> <p>14 way?</p> <p>15 A. Yes.</p> <p>16 Q. Mr. Langley said in his deposition</p> <p>17 that your husband, Robert Thorpe, paid him money</p> <p>18 to go get Mr. Lee in Vernal, Utah.</p> <p>19 Is that true, to your knowledge?</p> <p>20 A. No.</p> <p>21 Q. Have you looked through bank</p> <p>22 statements and cancelled checks from A-1 Bail</p> <p>23 Bonds in April and May of 1999 just to verify</p> <p>24 that no check was ever given by A-1 Bail Bonds</p> <p>25 to Mr. Langley?</p>
<p style="text-align: center;">*** Notes ***</p>	

1 A. Yes.
 2 Q. What have you found?
 3 A. There was no such payment.
 4 Q. Okay. Go ahead.
 5 A. There was also Gerald and Sherry
 6 Green that we've used for recovery, but like I
 7 said, those are just on a limited basis. And we
 8 would hire some out-of-state people to find
 9 people that are out of state to minimize our
 10 costs, because we don't know the areas, and it
 11 just takes a lot of time.
 12 Q. And have you paid all of those
 13 individuals with a check?
 14 A. Yes.
 15 MS. BLANCH: Let's mark as Exhibit 4
 16 what I've put in front of our court
 17 reporter.
 18 (Exhibit 4 marked).
 19 BY MS. BLANCH:
 20 Q. This is something that you sent to me
 21 last week; is that right?
 22 A. Yes, ma'am.
 23 Q. Okay. As Mr. Sanders is looking it
 24 over, because he hasn't seen this yet, could you
 25 tell us what Exhibit 4 is?

1 A. It's bank statements for our business
 2 account, for A-1 Bail Bonds.
 3 Q. From what time period?
 4 A. I believe from the end of March
 5 until maybe May or June.
 6 Q. Okay. And why did --
 7 A. Prior to the date of his recovery,
 8 and then a month or more after that time.
 9 Q. Why did you get those bank
 10 statements?
 11 A. To look to see if a payment had, in
 12 fact, been made. You know, just to clarify, so
 13 that I could make exact responses today. Even
 14 though I had no knowledge of any payment, I
 15 just wanted to double-check for my own peace of
 16 mind.
 17 Q. And you've also brought cancelled
 18 checks with you, I noticed?
 19 A. Yes, ma'am, so that if there's any
 20 misunderstanding about any amount that appears
 21 on there, that the actual check can be viewed to
 22 see to whom it was endorsed and where it was
 23 cashed and the date it was issued.
 24 Q. Okay. If Mr. Sanders wishes during a
 25 break, will he be able to look through those

*** Notes ***

1 cancelled checks?
 2 A. Absolutely.
 3 Q. But you can tell us now that after
 4 looking at your bank statements and the cancelled
 5 checks, there were no checks made out to Miles
 6 Langley?
 7 A. No, ma'am.
 8 Q. We have been talking about two
 9 bonds, one is November 30, 1998, and then there
 10 was a second one. I don't know if you've
 11 brought that with you.
 12 A. I think both bonds were originally
 13 written on the same date, and then when he was
 14 re-incarcerated, both bonds would be posted on
 15 the same date, to the best of my knowledge.
 16 Q. Okay. The second bond would have
 17 been dated around April 3 of 1999, wouldn't it
 18 have?
 19 A. Yes, ma'am. April 30 maybe. April 3
 20 or April 30, I'm sorry.
 21 Q. Okay. Between the time that you
 22 learned --
 23 A. April 3.
 24 Q. Okay. April 3?
 25 A. Yes, ma'am.

1 Q. So one is dated November 30, '98, the
 2 other is dated April 3 of '99?
 3 A. That's correct.
 4 Q. Between the time that you learned
 5 that Miles Langley had apprehended Gerald Lee
 6 and brought him back to Colorado and the time
 7 you issued the second bond on April 3 of 1999,
 8 did you or anyone at A-1 Bail Bonds tell Ranger
 9 that Mr. Langley had apprehended Mr. Lee?
 10 A. I don't believe so, no.
 11 Q. Did you or anyone else at A-1 Bail
 12 Bonds tell Ranger about the circumstances of
 13 how Mr. Langley had apprehended Mr. Lee?
 14 A. I don't believe so.
 15 Q. Okay. To your knowledge, would
 16 Ranger have had any way of knowing that there
 17 was a scuffle between Mr. Langley and the Lee
 18 brothers during the apprehension?
 19 A. Not by our agency, no.
 20 (Exhibit 5 marked).
 21 BY MS. BLANCH:
 22 Q. What we've marked as Exhibit 5 is a
 23 copy of the bail bond underwriting agreement
 24 between Ranger and A-1 Bail Bonds.
 25 MS. BLANCH: And I don't know

*** Notes ***

CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of March, 2005, I caused two true and correct copies of the foregoing **REPLY BRIEF** was mailed, first class, postage pre-paid to the following:

**Julianne P. Blanch
SNOW CHRISTENSEN & MARTINEAU
10 Exchange Place, Suite 1100
Salt Lake City, UT 84111**

**Robert P. Thorpe
3047½ A½ Road
Grand Junction, CO 81503**

