

1972

Phillips Manufacturing Company v. Gerald Putnam, Dba Star Valley, Dba Putnam Enterprise, And Fay Putnam : Appellant's Reply Brief

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. Heber Grant Ivins; Attorney for Appellant

Recommended Citation

Reply Brief, *Phillips Manufacturing v. Putnam*, No. 12865 (1972).
https://digitalcommons.law.byu.edu/uofu_sc2/5659

This Reply Brief 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

PHILLIPS MANUFACTURING
COMPANY, *Plaintiff and Appellant,*

vs.

GERALD PUTNAM, dba STAR
VALLEY, dba PUTNAM
ENTERPRISE, and FAY
PUTNAM, his wife, dba per above,
Defendant and Respondent.

Case No.
12865

APPELLANT'S REPLY BRIEF

Appeal from the Judgment of the Second District Court for
Weber County
Honorable Ronald O. Hyde, Judge

FINDLEY P. GRIDLEY
427 27th Street
Ogden, Utah 84401
Attorney for Respondent

HEBER GRANT IVINS
75 North Center
American Fork, Utah 84003
Attorney for Appellant

FILED

SEP 20 1972

Clerk, Supreme Court, Utah

TABLE OF CONTENTS

	Page
STATEMENT OF FACTS	1
ARGUMENT	2
POINT I. THE PROVISIONS OF 59-15-7, UTAH CODE ANNOTATED, 1953 REFER TO AND APPLY ONLY TO INFORMATION PROVIDED THE STATE OF UTAH IN CONNECTION WITH RETURNS. THE APPLICABLE STATUTE IS 59-15-3, UTAH CODE ANNOTATED, 1953 SUPPLEMENT WHICH REQUIRES A BUSINESS TO AC- QUIRE A SALES TAX LICENSE GIVING PERTINENT INFORMATION AND THE LICENSE ITSELF IS TO BE PUBLICLY DISPLAYED. NOTHING IS SAID TO IN- DICATE SUCH INFORMATION IS PRIVI- LEGED.	2
CONCLUSION	3

TEXTS CITED

59 Am. Jur 2d § 27	2
48-1-13, Utah Code Annotated, 1953	4
59-15-3, Utah Code Annotated, 1953	2, 3
59-15-7, Utah Code Annotated, 1953	2, 3

IN THE SUPREME COURT OF THE STATE OF UTAH

PHILLIPS MANUFACTURING
COMPANY, *Plaintiff and Appellant,*

vs.

GERALD PUTNAM, dba STAR
VALLEY, dba PUTNAM
ENTERPRISE, and FAY
PUTNAM, his wife, dba per above,
Defendant and Respondent.

Case No.
12865

APPELLANT'S REPLY BRIEF

STATEMENT OF FACTS

There is nothing in the record to substantiate any claims as made in Paragraph 3 of respondent's Statement of Facts that defendant, Gerald Putnam, repaid by deposits any of the claimed loans from his wife's bank account.

As to Paragraph 7 of respondent's Statement of Facts, it is disputed that the defendant, Fay Putnam, can deny responsibility for answers to interrogatories which she signed and in which she and her husband, defendant Gerald Putnam, claimed to have paid sales tax as "Gerald Putnam doing business as Star Valley Sales." See answer 5 to plaintiff's interrogatories.

ARGUMENT

POINT I

THE PROVISIONS OF 59-15-7, UTAH CODE ANNOTATED, 1953, REFER TO AND APPLY ONLY TO INFORMATION PROVIDED THE STATE OF UTAH IN CONNECTION WITH RETURNS. THE APPLICABLE STATUTE IS 59-15-3, UTAH CODE ANNOTATED, 1953 SUPPLEMENT WHICH REQUIRES A BUSINESS TO ACQUIRE A SALES TAX LICENSE GIVING PERTINENT INFORMATION AND THE LICENSE ITSELF IS TO BE PUBLICLY DISPLAYED. NOTHING IS SAID TO INDICATE SUCH INFORMATION IS PRIVILEGED.

The narrative statement set forth in 59 Am. Jur. 2d § 27, page 950, indicates that the registration requirements of a state are of great importance in determining the composition of the business. For example, it is stated:

“the filing of such a certificate does not affect the contract between partners, *but merely notifies the public* as to the name under which they are carrying on the business . . . (Emphasis supplied)

When a partnership engages in a business that is affected with a public interest, it becomes subject to public control and regulation to the same extent that any individual or corporation would be. Thus, a partnership which does business in an industry or profession regulated by licensing requirements may have to obtain a license as such, or the partners may have to obtain licenses individually, depending on the particular business. If a license to sell certain articles is granted to a partnership, it may afford protection only for those acts that in law are the acts of the partnership; conversly, it has been held that a license to an individual cannot be construed as a license to a partnership.”

Thus, by inference the statement holds that a license issued to a partnership cannot be construed as a license to an individual. In the instant case there was no license issued to Star Valley Sales and all sales tax was paid through the license issued to Putnams and no other business license was obtained. (See answer No. 4 to plaintiff's interrogatories.)

CONCLUSION

Thus, it is clear that the provisions of 59-15-7, Utah Code Annotated, 1953, making tax returns confidential information is not applicable but, rather, that the pro-

visions of 59-15-3, Utah Code Annotated, 1953 Supplement which requires a business to acquire sales tax license which is public in nature is the applicable statute and, thus, falls within the purview of 48-1-13 making a partnership by estoppel.

Respectfully submitted,

HEBER GRANT IVINS

Attorney for Appellant

75 North Center

American Fork, Utah 84003