

2005

Mike and Mary Meloni v. Honorable Glenn K. Iwasaki : Brief of Appellant

Utah Court of Appeals

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Brent M. Johnson; attorney for respondent.

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IN THE UTAH SUPREME COURT

MIKE AND MARY MELONI,

Petitioners,
vs.

HONORABLE GLENN K. IWASAKI,

Respondent,

TROY DAVIS,

Real Party In Interest.

Appellate Case No.20050442-SC

Priority 12
Supreme Court
UTAH [REDACTED] BRIEF

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BRIEF OF PETITIONERS

PETITION FOR EXTRAORDINARY WRIT TO REVIEW
THE JUDGMENT OF DISMISSAL BY THE THIRD DISTRICT
COURT IN AND FOR SALT LAKE COUNTY, STATE OF UTAH,
THE HONORABLE GLENN K. IWASAKI, PRESIDING

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Troy Davis

FILED
UTAH APPELLATE
AUG 15 2005

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JURISDICTION OF THIS COURT

The Supreme Court of the State of Utah has original jurisdiction over the filed Petition for Extraordinary Writ pursuant to Utah Code Annotated § 72-2-2 (2), Rule 19 (a) of the Utah Rules of Appellate Procedure, and Rule 65B (d) of the Utah Rules of Civil Procedure.

STATEMENT OF ISSUES PRESENTED FOR REVIEW

The Petitioners present two issues for review:

1. Did the district court abuse its discretion by denying the Petitioners a trial de novo following the entry of a small claims court judgment? This issue presents a question of law as to whether the district court exceeded the limits of its discretion.

Kawamoto v. Fratto, 994 P. 2d 187 (Utah, 2000)¹ Since this matter is an original proceeding before this Court, the issue is preserved on page 5 of the Petition for Extraordinary Relief, Memorandum of Points and Authority dated May 11, 2005.

2. Is the district court estopped from denying Petitioners' appeal for a trial de novo when the Notice of Appeal was filed timely pursuant to the trial court's judgment? Since the facts of this case are virtually uncontested, the order of the district court is a legal conclusion and is reviewable for correctness. Burns Chiropractic Clinic v. Allstate Insurance Co., 851 P. 2d 1209 (Utah App. 1993), and Eldredge v. Utah State Retirement, 795 P. 2d 671 (Utah App. 1990). Since this matter is an original proceeding before this Court, the issue is preserved on page 8 of the Petition for Extraordinary Relief, Memorandum of Points and Authority dated May 11, 2005.

¹ The Kawamoto implied standard of review has been questioned in the very recent case of Burke v. Lewis, 2005 Ut 44. The Petitioners urge this Court, in this case, to maintain the Kawamoto standard.

STATUTORY PROVISIONS

The following statutory provision is subject to interpretation by this Court with this Petition:

UTAH CODE ANN. § 78-6-10 (1) reads as follows:

Either party may appeal the judgment in a small claims action to the district court of the county by filing a notice of appeal in the original trial court within 30 days of entry of the judgment. If the judgment in a small claims action is entered by a judge or judge pro tempore of the district court, the notice of appeal shall be filed with the district court.

STATEMENT OF THE CASE

The Petitioners, Mike and Mary Meloni (hereinafter collectively referred to as the “Melonis”), were sued by the Real Party In Interest, Troy Davis (hereinafter referred to as “Davis”), in the Small Claims Department of the Third Judicial District Court for Salt Lake County, Utah on November 23, 2004. Davis alleged that the Melonis owed him slightly under \$5,000.00 for remodeling work. (R. 1). A trial was held before the small claims court on January 19, 2005, following which judgment was entered against the Melonis for just over \$2,300.00. (R. 10).

On March 2, 2005, the Melonis filed a Notice of Appeal from small claims judgment with the district court. Judge Glenn K. Iwasaki was assigned to the case. (R. 11). On March 14, 2005, Davis, by and through his attorney, filed a Motion to Dismiss Appeal. The gravamen of the motion was that the Notice of Appeal was filed untimely. (R. 17-27). A hearing on the Motion to Dismiss and a de novo trial, if necessary, was scheduled for April 11, 2005. (R. 29).

On April 5, 2005, the Melonis, by and through their attorney, filed their Memorandum In Opposition To Motion To Dismiss. (R. 30-34). At the April 11, 2005,

hearing, and following oral argument, the district court granted the Motion to Dismiss Appeal without conducting a trial de novo. (R. 49-50). As a result of that order, the Melonis filed this Petition of Extraordinary Relief on May 11, 2005. The district court entered an Order Staying the Enforcement of Judgment on June 15, 2005. (R. 62-63).

STATEMENT OF FACTS

From the record, the small claims court trial between Davis and the Melonis appears routine, except that the Melonis were represented by legal council, Lance D. Thaxton. (R. 9-10, 35). When the pro tem judge rendered his decision in favor of Davis, the trial court used a judgment form which had the following language printed on the back of it:

APPEAL. Either party may appeal a Small Claims judgment within 10 business days (not counting weekends or holidays) of loser's receipt of notice of entry of judgment. A NOTICE OF APPEAL must be filed with the court that issued the judgment and the appropriate fee paid.

(R. 11)

Mr. Thaxton pointed out to the trial court that the 10 days stated above was wrong and that the appeals time is now 30 days. (R. 35). Upon receipt of this information, the trial court wrote "30" over the "10" so that the appeals paragraph on the back of the Judgment now reads as follows:

APPEAL. Either party may appeal a Small Claims judgment within 30 business days (not counting weekends or holidays) of loser's receipt of notice of entry of judgment. A NOTICE OF APPEAL must be filed with the court that issued the judgment and the appropriate fee paid.

(R. 24).

The Melonis, representing themselves, filed the Notice of Appeal with the district court on March 2, 2005; forty-two (42) “calendar” days after the entry of the small claims court judgment, but twenty-nine (29) “business” days after the entry of the Judgment. (R. 19, 31). The district court refused to grant the Melonis a trial de novo. (R. 49).

SUMMARY OF ARGUMENT

The issue presented by this Petition for Extraordinary Relief is very easy to state: it is simply who shall bear the risk of a small claims court judge making a potentially incorrect written change to a clearly incorrect printed form on a small claims court judgment. Although the issue may be simple to state, the legal analysis of the issue is not. The district court ruled that the parties who relied upon the small claims court judge must bear the risk of that reliance. This is legally wrong for two reasons. First, the district court had no discretion, but must accept the filed Notice of Appeal because that Notice complied with the written instructions of the small claims court judge. Second, the doctrine of equitable estoppel requires the district judge to accept the Melonis’ Notice of Appeal.

ARGUMENT

POINT I: THE DISTRICT COURT ABUSED ITS DISCRETION WHEN IT DID NOT GRANT PETITIONERS A TRIAL DE NOVO.

The Honorable Glenn K. Iwasaki (hereinafter “district court”) argues in his Response to Petition for Extraordinary Relief that he

had discretion to determine what was appropriate for both parties, considering the facts and the law. The lower court had significant evidence to support its decision, based on the statute and the rule. This court should therefore determine that the lower court did not abuse its discretion.

(See Response to Petition for Extraordinary Relief, p. 4).

The better rule is that, based on the statutes and the rules, the district court had no discretion but to accept, as timely, the Melonis' Notice of Appeal.

Of course, the starting point for any legal analysis of this situation is the state statute which has been quoted above. U.C.A. § 78-6-10. That statute grants either party to small claims action within "30 days" to file a Notice of Appeal. This statute does not state "calendar" or "business" days. However, this Court, by adopting Rule 12 (a) of Utah Rules of Small Claims Procedures, gave context to the state statute with the following:

Any party may appeal a final order of judgment within 30 calendar days after entry of judgment or order or after denial of a motion to set aside the judgment or order, whichever is later.

There is no dispute that the small claims court's judgment conflicts with the above quoted rule.

This Court has also prorogated Rule 1 (a) of Utah Rules of Small Claims Procedures, which reads in pertinent part as follows:

They [Utah Rules of Small Claims Procedures] are to be interpreted to carry out the statutory purpose of small claims cases, dispensing speedy justice between the parties.

In a recent case, Kawamoto v. Fratto, 994 P. 2d 187 (Utah 2000), this Court used the statutory precursor of Rule 1 (a) to hold that the district court abused its discretion by denying, at a trial de novo, a party the right to present live testimony. The denial by the district court was contrary to the instructions printed on the back of the small claims court affidavit. In so holding, this Court wrote:

we conclude that even though the instructions on the back of the affidavit are not in fact the actual simplified rules of evidence and procedure contemplated by the statute, the trial [district court] judge abused his discretion in denying petitioner the opportunity to present her evidence through live witness testimony.

994 P. 2d at 190.

If we apply the above statement to the case at hand, the district court clearly abused his discretion by denying the Melonis a trial de novo because the district court was ignoring the hand written instructions of the trial judge on the back of the trial court's signed judgment.

The district court, in its Response to Petition for Extraordinary Relief, is not concerned about ignoring the lower court's handwritten order. The district court argues that

the ruling of the trial [district] court confirms, however, that a litigant should be cautious in relying on a handwritten notation on an instruction form, to the exclusion of other, more specific directives in the statute or rule.

(See Response to Petition for Extraordinary Relief, p. 4)

Such a harsh burden on pro se, small claims court litigants seem to be contrary to the general rule that trial courts have the discretion to extend the time necessary to file a Notice of Appeal.

Rule 6 (b), Utah Rules of Civil Procedure, reads in pertinent part as follows:

Enlargement. When by these rules or by a notice given thereunder or by order of the court an act is required or allowed to be done at or within a specified time, the court for cause shown may at any time in its discretion (1) with or without motion or notice order the period enlarged if request therefore is made before the expiration of the period originally prescribed or as extended by a previous order...

Although the facts in this case do not exactly fit the above quoted rule, the small claims court judge effectively enlarged the time under which a party had the right to appeal its judgment. In light of the extremely flawed form which the small claims court was using and which the judge had to correct, granting an appeals extension, even if unintended, would be appropriate under the Rules of Civil Procedure.

There is no dispute that, if the extension of time to appeal done by the small claims court judge was legal, the Melonis did everything appropriate to prosecute their appeal. This case is therefore different that Panos v. Third District Court, 103 P. 3d 695 (Utah 2004). In Panos, the small claims court appellate failed to pay her filing fee. This Court rules that, under Rule 12 (h) of the Utah Rules of Small Claims Procedures, the district court had discretion as to whether or not to dismiss the appeal since the payment of the fee was not a jurisdictional issue. The timely filing of a Notice of Appeal is a jurisdictional issue.

Consistent with the intent of the Utah Rules of Small Claims Procedure and Rule 6 (b) of Utah Rules of Civil Procedure, the small claims court judge can extend the period of time in which parties may appeal from a small claims court judgment. In this case, the time was extended for less than two weeks. The Melonis filed a timely Notice of Appeal. Therefore, the district court had no discretion but to grant the Melonis a trial de novo.

**POINT II: EQUITABLE ESTOPPEL REQUIRES THE DISTRICT COURT
 TO HOLD A TRIAL DE NOVO.**

The doctrine of equitable estoppel is not normally applicable to governmental decisions or actions. However, the Utah courts have permitted the doctrine to be used

against the government in limited circumstances. In the seminal case Celebrity Club, Inc. v. Utah Liquor Control Commission, 602 P. 2d 689 (Utah 1979), this court held:

Equitable estoppel may be applied against the State, even when it is acting in a governmental capacity, if necessary to prevent manifest injustice, and the exercise of governmental powers will not be impaired as a result.

The elements essential to invoke the doctrine of Equitable estoppel are:

- (1) an admission, statement, or act inconsistent with the claim afterwards asserted,
- (2) action by the other party on the faith of such admission, statement, or act, and
- (3) injury to such other party resulting from allowing the first party to contradict or repudiate such admission, statement, or act.

602 P. 2d at 694.

There is no dispute that all three of the above quoted elements exist in the case at hand. Instead, the district court argues that footnote 10 of the Celebrity Club case requires, in the case at hand, “culpability” on the part of the small claims court when it changed the judgment form. (See Response to Petition for Extraordinary Relief, p. 5). Such reliance upon the footnote is misplaced. In Eldrede v. Utah State Retirement Board, 795 P. 2d 671 (Utah App. 1990), the Court of Appeals refer only to the above stated three point test in applying equitable estoppel to government action. In Holland v. Career Service Review Board, 856 P. 2d 678 (Utah App 1993), the Court of Appeals again referred only to the three point test of Celebrity Club when the court refused to apply the doctrine to an agency action.

The real legal issue in applying the doctrine of equitable estoppel to the case at hand is the first part of the above quoted Celebrity Club decision: is applying the doctrine

“necessary to prevent manifest injustice, and the exercise of governmental powers will not be impaired as a result”. The Melonis have satisfied this precondition to applying the doctrine. Not permitting pro se, small claims litigation the right of appeal after they complied with the written instructions of a judge must be “manifest injustice”.

Hopefully, this case is a unique situation because the small claims judgment forms should be changed so the case at hand will never occur again. Thus, governmental powers will not be impaired.

The doctrine of equitable estoppel should be applied to the written instruction of the small claims court and the Melonis should be permitted to have a trial de novo.

CONCLUSION

Based upon the above, the Melonis’ Petition for Extraordinary Relief should be granted and this Court should order the district court to conduct a trial de novo on the Davis’ small claims affidavit.

Respectfully submitted this ____ day of _____, 2005.

Joseph E. Hatch
Attorney Petitioners Mike and Mary Meloni

MAILING CERTIFICATE

I hereby certify that on the _____ day of _____, 2005, I served two copies of the foregoing Brief Of Petitioners on each of the following by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

Brent M. Johnson
Administrative Office of the Courts
450 South State Street, Suite N31
P.O. Box 140241
Salt Lake City, Utah 84111-0241

Jay L. Kessler
Kessler Law Office
9117 West 2700 South, #A
Magna, UT 84044

APPENDIX

THIRD DISTRICT COURT, STATE OF UTAH
SALT LAKE COUNTY, SMALL CLAIMS DEPARTMENT
450 SOUTH STATE STREET, SALT LAKE CITY, UTAH 84111

FILED
DISTRICT COURT

JAN 19 PM 8:08

THIRD DISTRICT
SALT LAKE COUNTY

Thomas T Davis, Plaintiff)
Name)
Street Address)
City, State, ZIP Phone)
Mike Meloni)
Mary Meloni, Defendant)
Name)
Street Address)
City, State, ZIP Phone)

SMALL CLAIMS JUDGMENT

Case No. 048905168

DATE OF TRIAL: Jan 19, 2005

PARTIES APPEARING: ☒ Plaintiff ☒ Defendant

THE COURT ORDERS JUDGMENT AS FOLLOWS:

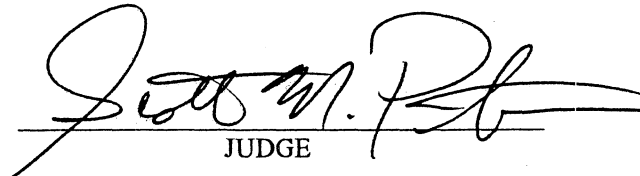
☒ FOR PLAINTIFF [] FOR DEFENDANT ON COUNTER AFFIDAVIT
\$ 2202.25 Principal (including any allowable pre-judgment interest and fees)
\$ 121.00 Court Costs
\$ 2323.25 Total Judgment, with interest [] at _____ percent (the current state post-judgment rate)
OR [] _____ percent pursuant to the contract between the parties, until paid.

[] FOR DEFENDANT [] FOR PLAINTIFF ON COUNTER AFFIDAVIT

- [] No Cause of Action
[] Dismissal With Prejudice (claim may not be refiled)
[] Dismissal Without Prejudice (claim may be refiled)

This judgment is effective for 8 years.

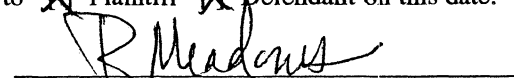
Dated Jan 19, 20 05


JUDGE

NOTICE OF ENTRY OF JUDGMENT

I certify that I [] mailed ☒ delivered a copy of this judgment to ☒ Plaintiff ☒ Defendant on this date.

Dated Jan 19, 20 05


☒ Clerk or Deputy
[] Plaintiff
[] Defendant

NOTICE OF ENTRY OF JUDGMENT

If all parties were at the trial, the court will provide a copy of the judgment to each party. If less than all the parties are at the trial and a claim is dismissed, the party who benefits from the dismissal must send a copy of the judgment with the Notice of Entry of Judgment completed. If less than all parties are at the trial and a default judgment is granted, the party in whose favor the default judgment was granted must send a Notice of Default Judgment (including a copy of the judgment).

HOW TO COLLECT A SMALL CLAIMS JUDGMENT

These Instructions are written as though the plaintiff was granted judgment against the defendant. They also apply to a defendant who was granted judgment against the plaintiff on a **Counter Affidavit**. There are generally fees associated with each of the procedures described below. Keep track of the fees you pay.

If the defendant fails to pay the judgment after receiving notice, you should first consider contacting the defendant to find out why it has not been paid. You should remind the defendant that additional court procedures will add costs to the judgment. If you are unable to work out satisfactory arrangements for payment, the following collection procedures are available through the court:

1. SUPPLEMENTAL ORDER – To find out the defendant's income and assets. After judgment, you may have the defendant ordered into court to answer questions about the defendant's property, income and assets. Begin this procedure by obtaining a **Supplemental Order** form from the clerk, completing it, and returning it to the clerk to be issued. The clerk will set a date for the defendant's appearance. Defendant must be served with the Order by a Sheriff or Constable at least 5 business days in advance. You are responsible for the costs. You must also appear on the designated date to handle the questioning. You may ask the defendant about employment, assets and other funds owned. You may ask names, addresses and telephone numbers of those who owe the defendant money. You should take detailed notes, so that you may later use the information. When you have information about the defendant's income and assets, you may proceed with the following additional actions.

2. ABSTRACT OF JUDGMENT – To put a lien on the defendant's real estate. If the defendant owns any real estate in Utah, you can place a lien on it by filing an **Abstract of Judgment**. Begin this procedure by obtaining an **Abstract of Judgment** form from the clerk no sooner than 10 business days after judgment is granted. Complete the form and have it issued by the clerk. Then file the form in the District Court in the county where the defendant's real estate is located. There will be a filing fee. From the time it is filed, the **Abstract of Judgment** constitutes a lien on all real estate in the county listed in the defendant's name. To establish the lien's priority, a separate information statement with certain information about the defendant must be filed with the district court. A form for providing this information is available from the District Court. The defendant will usually be unaware of the lien until the defendant tries to sell or borrow against the property, or until a title search is performed. The lien remains against the property until the judgment is paid or expires. The defendant will usually not be able to transfer the property until resolving the lien.

3. EXECUTION – To seize the defendant's property and sell it at public auction. Once you have identified real estate or personal property owned by the defendant, you may have the sheriff or constable seize it and sell it. The defendant may be entitled to claim that certain property is exempt from execution. The full list of exempt property is found in Utah Code Title 78, Chapter 23. All seized property is subject to prior liens in favor of other persons, if any. The proceeds from a sale of the property shall be used first to satisfy the costs of sale and then to satisfy your judgment. The balance, if any, must be returned to the defendant. Begin this procedure by obtaining a **Writ of Execution** form from the clerk, completing it and having the clerk issue an original and one copy. There will be a filing fee. You should then take to the sheriff or constable, (1) the issued original and copy, (2) a "request or hearing" packet (provided by the Court Clerk), and (3) a typewritten list of the property to be seized (including description and location). The sheriff or constable will serve these documents and then contact you to make arrangements for a sale date. You will be responsible for the sheriff or constable's fees.

4. GARNISHMENT – To intercept money owed to the defendant by someone else. You may garnish defendant's wages, bank accounts, or debts owed to the defendant. State and federal exemptions on wage garnishments will limit your recovery to about 25% of the wages due the defendant when the **Writ of Garnishment** is served. Begin this procedure by obtaining a packet of garnishment forms from the clerk, completing the required information and returning them to the clerk to be issued. You should then give the entire packet to the sheriff or constable for service. The packet will include a list of questions for the person holding the defendant's money (e.g., the defendant's employer, the defendant's bank), who is called the garnishee. You will be required to pay a filing fee, as well as a fee to the garnishee. The garnishee should answer within 5 business days. Ten business days after you receive the answers, if defendant has not claimed an exemption, ask the court clerk for a Garnishee Order to obtain defendant's money.

OTHER INFORMATION REGARDING SMALL CLAIMS JUDGMENTS

1. APPEAL. Either party may appeal a Small Claims judgment within 30 business days (not counting weekends or holidays) of loser's receipt of notice of entry of judgment. A **Notice of Appeal** must be filed with the court that issued the judgment and the appropriate fee paid.

2. DEFAULT JUDGMENTS/DISMISSALS. If you did not appear for trial and judgment was entered against you, you may ask that the judgment be "set aside." The court must receive the **Request to Set Aside Judgment** within thirty calendar days after the **Notice of Default Judgment** as mailed to you. For more information, see the **Request to Set Aside Judgment** form which is available from the clerk's office.

3. SATISFACTION OF JUDGMENT. If and when the judgment is paid, you must obtain and file a **Satisfaction of Judgment** form with the clerk. A **Satisfaction of Judgment** must also be filed in each county in which an **Abstract of Judgment** was filed. There is no cost for the **Satisfaction of Judgment**.

MAR - 2 2005

SALT LAKE COUNTY

Deputy Clerk

Third District Court, State of Utah
SALT LAKE COUNTY, SALT LAKE DEPARTMENT

<u>TROY DAVIS</u> <u>1892 S12 CHARLES DR</u> <u>SLC UT 84116</u> vs <u>Michael Meloni</u> <u>Mary Meloni</u> <u>318 E 900 N</u> <u>Bountiful UT 84015</u>	NOTICE OF APPEAL FROM SMALL CLAIMS JUDGMENT (Original) Case No. <u>048905168</u> New Case No. <u>048900812</u> Judge <u>Juarez</u>
--	--

Notice is given that Michael & Mary Meloni, who is the PLAINTIFF/DEFENDANT in the above entitled case, hereby appeals to the District Court from the judgment in favor of Troy Davis and against Michael & Mary Meloni.

The appeal is filed within thirty days of notice of the judgment, which was entered on the date of 19th, 2005. This appeal is by trial de novo in the District Court, pursuant to rule 78 - 6 - 10, Utah code Annotated.

Dated this 2nd day of March, 2005.

[Signature]
Appellant or Attorney for Appellant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he/she served the foregoing Notice of Appeal on the opposing party by MAILING/DELIVERING a copy, with all postage or other fees prepaid to:

NAME TROY DAVIS

ADDRESS 1892 S12 CHARLES DR SLC, UT 84116

on the 2nd day of March, 2005.

[Signature]
Appellant or Attorney for Appellant

3RD DISTRICT COURT - SALT LAKE COURT
SALT LAKE COUNTY, STATE OF UTAH

THOMAS T DAVIS,	:	MINUTES
Plaintiff,	:	TRIAL DE NOVO
	:	
	:	
vs.	:	Case No: 058900812 SD
	:	
MIKE MELONI Et al,	:	Judge: GLENN K. IWASAKI
Defendant.	:	Date: April 11, 2005

Clerk: janetmb

PRESENT

Plaintiff(s): THOMAS T DAVIS
Defendant(s): MIKE MELONI
MARY MELONI
Plaintiff's Attorney(s): JAY L KESSLER
Defendant's Attorney(s): JOSEPH E HATCH
Video
Tape Number: 11:16

TRIAL

TAPE: 11:16

This case comes before the Court on a Small Claims Appeal.
Appearances as shown above.
There being an outstanding Motion to Dismiss Appeal, Court hears arguments and grants the Motion to Dismiss with prejudice.

THIRD DISTRICT COURT, STATE OF UTAH
SALT LAKE COUNTY, SMALL CLAIMS DEPARTMENT
450 SOUTH STATE STREET, SALT LAKE CITY, UTAH 84111

Thomas T Davis, Plaintiff)
Name)
Street Address)
City, State, ZIP) Phone)
Mike Meloni, Defendant)
Name)
Mary Meloni)
Street Address)
City, State, ZIP) Phone)

SMALL CLAIMS JUDGMENT

Case No. 058900812
Small Claims Appeal
ATP: Jay Kressler

DATE OF TRIAL: April 11, 2005

PARTIES APPEARING: ☒ Plaintiff ☒ Defendant

THE COURT ORDERS JUDGMENT AS FOLLOWS:

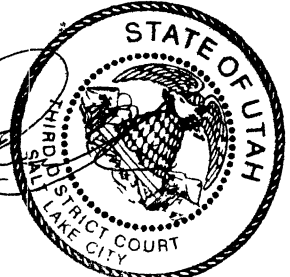
☐ FOR PLAINTIFF ☐ FOR DEFENDANT ON COUNTER AFFIDAVIT
\$ _____ Principal (including any allowable pre-judgment interest and fees)
\$ _____ Court Costs
\$ _____ Total Judgment, with interest ☐ at _____ percent (the current state post-judgment rate)
OR ☐ _____ percent pursuant to the contract between the parties, until paid.

☐ FOR DEFENDANT ☐ FOR PLAINTIFF ON COUNTER AFFIDAVIT
☐ No Cause of Action
☒ Dismissal With Prejudice (claim may not be refiled)
☐ Dismissal Without Prejudice (claim may be refiled)

This judgment is effective for 8 years.

Dated April 11, 2005

[Signature]
JUDGE



NOTICE OF ENTRY OF JUDGMENT

I certify that I ☐ mailed ☒ delivered a copy of this judgment to ☒ Plaintiff ☒ Defendant on this date.

Dated April 11, 2005

[Signature]
☒ Clerk or Deputy
☐ Plaintiff
☐ Defendant