

2005

Donnie Sweazey v. Flying J, Inc. : Reply Brief

Utah Court of Appeals

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Donnie Sweazey; Pro Se Appellant.

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IN THE UTAH COURT OF APPEALS

Donnie Sweazey)	
Plaintiff and Appellant)	
)	Case No. 2005 0584-CA
Vs.)	
)	
Flying J, Inc.)	Category No. 990909999
Defendant and Appellee)	

APPELLANT REPLY BRIEF

APPEAL FROM FINAL JUDGEMENT ENTERED ON MAY 31, 2005
IN THE THIRD JUDICIAL DISTRICT COURT IN AND FOR
SALT LAKE COUNTY, STATE OF UTAH,
THE HONORABLE GLENN K. IWASAKI, DISTRICT COURT JUDGE

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FILED
UTAH APPELLATE COURTS
FEB 27 2006

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IN THE UTAH COURT OF APPEALS

Donnie Sweazey)	
Plaintiff and Appellant)	
)	Case No. 2005 0584-CA
Vs.)	
)	
Flying J, Inc.)	Category No. 990909999
Defendant and Appellee)	

APPELLANT REPLY BREIF

Background

On December 9, 1997 I, Donnie Sweazey, did take in four propane tanks to Flying J for filling. The Flying J attendant, Nancy Beahm, attached the propane dispenser nozzle to one of the propane tanks. During the filling process Nancy Beahm, for some unknown reason, reached in and unscrewed the connection. Propane began spraying everywhere. Nancy Beahm screamed and jumped back. Afraid that the propane could explode if not contained I reached in and rescrewed the connection. Once retightened the propane stopped spraying. It is true that Nancy Beahm never asked for my assistance, but was I supposed to stand there and get blown up. Nancy Beahm just stood there in a state of shock. I believe that Nancy Beahm was not a licensed propane dispenser, as required by law, and that she was supposed to be more closely supervised. Furthermore Nancy Beahm was never drug tested after the accident even though she was a known drug addict in a treatment program who unfortunately overdosed three months later. Nancy Beahm was the direct cause of this accident because had she not messed with the connection the propane wouldn't have been spraying forcing immediate action. And even though my

hands were only exposed for less than a minute, they were covered with full liquid propane spray not just some minor mist.

Jury Trail

When the court dates were set no one said what kind of trail it was going to be. They just said it was a three day trail over the certain dates. I assumed it would be a jury trail since that is what I paid extra for.

Bankruptcy

When a creditor is discharged in a bankruptcy they can no longer collect on that debt. It doesn't matter if the creditor considered the debt due at that time of filing or in the future, as long as that particular *individual* creditor was accounted for in the debtor's bankruptcy at the time of discharge.

Withdrawal of Counsel

Morrison only gave me the paper that he was withdrawing just before we walked into the judge's chamber, and told me not to worry he would probably be back on as my counsel later down the road. Morrison also told the judge and opposing counsel that he would probably be back on. My agreement with Morrison was that the \$5000 would take my case through trail and I gave Morrison a \$5000 dollar non-refundable retainer. At the time of his withdrawal and to this day I still have money left on the books with Morrison. Prior to becoming my counsel Morrison had even told me that due to new laws once he had accepted my case he wouldn't be able to withdraw. Needless to say the fact that the judge allowed Morrison to withdraw was detrimental to my case because I am not a trail attorney and have little formal education. I had no say in what happened in the judge's chamber. Even after Morrison withdrew as my counsel he stayed in chambers set trail dates that fit into his calendar and waived my right for opposing counsel to serve me with notice to seek new counsel. The whole time we were in chambers the judge never said anything to me and Morrison acted like he was still my counsel. The judge shouldn't have allowed this to happen either, once Morrison withdrew as counsel he should have left chambers and allowed me to act on my behalf.

Judicial Bias

At a hearing the judge told me to bring Morrison on as my counsel or he was going to dismiss my case. I informed him that Morrison would be my counsel unless my wages were reinstated. So when I retained Morrison as my attorney it was alleged that my lost wages would be reinstated. It was the fact that my wages weren't reinstated that made Morrison want out. So how is it that the judge can make me retain counsel than let my counsel back out.

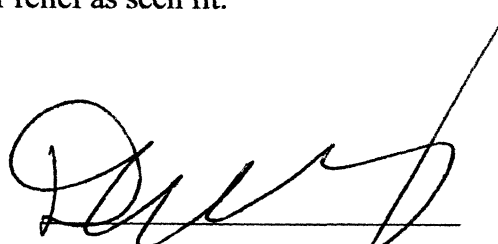
Injury and Expert Witness

Dr. Morris seen my for my injuries for a year and a half racking up approximately \$1700 in medical bills, wrote me for a 6% whole body impairment , and referred me to a hand specialist. Dr. Colman, the hand specialist, reevaluated my injury in 2004 and increased my whole body impairment to 24%. Dr. Morris knowing of the increased impairment rating and the continued medical expenses told my attorney that he would be my expert medical witness. Right before trial opposing counsel had a discussion with Dr. Morris who became upset with me and testified that I only had trivial minor injuries. How does several years of medical bills and two surgeries boil down to trivial and minor.

Conclusion

WHEREAS, There have been so many discrepancies and violations laid out in the Appellant Brief and this reply brief that I requests that the Court of Appeals rescind the judgment and send this case back to the Third District Court for a new trial including lost wages, with a new judge, enforce the discharge of debtor by disallowing Flying J's request for deposition costs, and/or granting other relief as seen fit.

Dated the 27th day of February 2006.

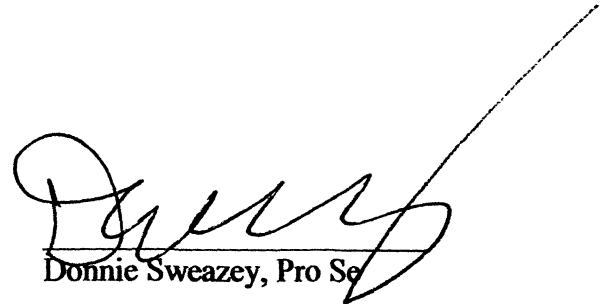

Donnie Sweazey, Pro Se

Certificate of Mailing or Delivery

I, Donnie Sweazey, certify that on February 27, 2006 I served a copy of this Appellant's Reply Brief upon James K. Tracy, the counsel for the Appellee in this matter, by mailing the document by first class mail to the following address:

James K. Tracy
Attorney for Flying J, Inc
1000 Kearns Bldg
136 South Main St.
Salt Lake City, UT 84101

This certificate is dated February 27, 2006.



Donnie Sweazey, Pro Se