

1994

Leonard Shyrl Brown and Ila Dell Brown v. Quinn Christensen : Brief of Appellee

Utah Court of Appeals

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Leonard Shyrl Brown; Ila Dell Brown; Pro Se.

Tex. R. Olsen; Olsen, McIff & Chamberlain; Attorney for Appellee.

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DOCKET NO.

940693

* * * * *

Priority No. 12

* * * * *

* * * * *

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FILED

DEC 06 1994
~~DEC 07 1994~~

COURT OF APPEALS

IN THE COURT OF APPEALS OF THE STATE OF UTAH

* * * * *

LEONARD SHYRL BROWN AND)	
ILA DELL BROWN,)	
)	
Plaintiffs-Appellants,)	Case No. 940693-CA
)	
-vs-)	
)	Priority No. 12
QUINN CHRISTENSEN,)	
)	
Defendant-Appellee.)	

* * * * *

BRIEF OF APPELLEE

* * * * *

PETITION FOR ORIGINAL WRIT OF MANDAMUS
DIRECTED TO THE HONORABLE DAVID L. MOWER
DISTRICT JUDGE OF SEVIER COUNTY, STATE OF UTAH

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Telephone: (801) 896-4864

LIST OF PARTIES

PLAINTIFFS-APPELLANTS:

1. Leonard Shyrl Brown
2. Ila Dell Brown

DEFENDANT-APPELLEE:

1. Quinn Christensen

TABLE OF CONTENTS

BRIEF OF APPELLEE

	<u>Page</u>
STATEMENT OF JURISDICTION	1
STATEMENT OF ISSUES	2
STANDARD OF REVIEW	2
DETERMINATIVE CONSTITUTIONAL PROVISIONS, STATUTES, ORDINANCES AND REGULATIONS	3
STATEMENT OF THE CASE	3
STATEMENT OF FACTS	4
SUMMARY OF ARGUMENT	6
ARGUMENT	7
POINT I APPELLANTS FAILED TO FILE A NOTICE OF APPEAL AND FOR THAT REASON THIS COURT IS WITHOUT JURISDICTION	7
POINT II MOTION FOR SUMMARY JUDGMENT IN FAVOR OF APPELLEE WAS PROPERLY GRANTED	10
A) JUDGMENT AND ORDER OF FEDERAL DISTRICT COURT IN AND FOR THE DISTRICT OF UTAH WAS ENTITLED TO FULL CREDIT SINCE IT IS A COURT OF GENERAL JURISDICTION AND HAD JURISDICTION OVER THE PARTIES AND SUBJECT MATTER	10
B) THE JUDGMENT OF THE FEDERAL DISTRICT COURT CANNOT BE COLLATERALLY ATTACKED	13
CONCLUSION	16

TABLE OF CONTENTS cont'd

	<u>Page</u>
APPENDIX	
Appellants' "Notice of Appeal"	A-1
Appellants' "Docketing Statement"	A-2
Judgment, Order of Foreclosure and Order of Sale	A-3
Federal Marshal's Receipt	A-4
Certificate of Purchase	A-5
U.S. Marshal's Deed	A-6
Common Law Commercial Lien	A-7
Affidavit of Tex R. Olsen	A-8

AUTHORITIES CITED

CASES

Bawden vs. Pearce, 414 P2d 578 (1966)	14
Bowen vs. Riverton City, 656 P2d 434 (Utah 1982)	9
Burgers vs. Maiben, 652 P2d 1320 (Utah 1982)	9
Edmonston vs. Sisk (1946) CA 10, Okla. (156 F2d 300) . .	15,16
Intermill vs. Nash, 75 P2d 157 (1938)	13,14,15
Nielson vs. Stoker, 669 P2d 390 (Utah 1983)	9
Olsen vs. Board of Education of Granite School District, 571 P2d 1336 (Utah 1977)	15
Winegar vs. Froerer Corp., 813 P2d 104,107 (Utah 1991) . . .	2
Yost vs. State, 640 P2d 1044 (Utah 1981)	9

TEXT REFERENCES

49 C.J.S. <u>Collateral Attack</u> , §401	13
---	----

STATUTES

United States Constitution, Article III, §§2,3 10

26 U.S.C.S., §7402, Jurisdiction
 of District Courts, 11

28 U.S.C.S., §125 11

28 U.S.C.S., §1332, Judiciary
 and Judicial Procedure, 11

Utah Code Annotated, 1953:

§78-2a-3(2)(k) 1

§78-22-56 10,16

Utah Rules of Appellate Procedure:

Rule 3 8

Rule 3(d) 9

Rule 4 8

Rule 29 8

Rule 29(b)(12) 8

Rule 33 10,16

IN THE COURT OF APPEALS OF THE STATE OF UTAH

* * * * *

LEONARD SHYRL BROWN AND)	
ILA DELL BROWN,)	
)	
Plaintiffs-Appellants,)	Case No. 940693-CA
)	
-vs-)	
)	Priority No. 12
QUINN CHRISTENSEN,)	
)	
Defendant-Appellee.)	

* * * * *

STATEMENT OF JURISDICTION

This case is poured over to this Court under the Judicial Code, specifically §78-2a-3(2)(k), Utah Code Annotated, 1953, as amended. However, no Notice of Appeal has been filed and Appellee contends this Court has not acquired jurisdiction since more than thirty (30) days has elapsed since the filing of a final order.

An ambiguous Notice of Appeal states: "The above-entitled matter is appealed to the Court of Appeals in the form of Petition for Writ of Mandamus." (See Appendix A-1)

The ambiguity was taken from the Notice of Appeal with the filing of a Docketing Statement (Appendix A-2). The Docketing Statement makes it clear the matter is not before the Court on appeal. The document is designated: "Petition for Writ of Mandamus to Judge David L. Mower, Sixth District Court for Sevier

County."

The Docketing Statement further uses the following language:

We appreciate Mr. Butler's raising the question as to whether this appeal should be handled as a Petition for Writ of Mandamus and/or Appeal of Right. We address this issue first in this document. We believe this should be handled as Petition for Writ of Mandamus for the following reasons:...

STATEMENT OF ISSUES

Identification of Parties

Plaintiffs and Appellants, Leonard Shyrl Brown and Ila Dell Brown are husband and wife and appearing Pro Se.

Quinn Christensen is the Defendant and Appellee and is appearing through Tex R. Olsen, of Olsen, McIff & Chamberlain, his attorneys.

Issues

1. Whether this Appellant Court acquired jurisdiction when Appellants failed to file a Notice of Appeal in compliance with Rules 3 and 4 of the Utah Rules of Appellate Procedure.
2. Whether or not a valid judgment of a court of general jurisdiction is subject to collateral attack.

STANDARD OF REVIEW

The standard of review is a question of law. The case is here on the granting of a Summary Judgment. (Winegar vs. Froerer Corporation, 813 P2d 104, 107 [Utah 1991]).

**DETERMINATIVE CONSTITUTIONAL PROVISIONS,
STATUTES, ORDINANCES, AND REGULATIONS**

United States Constitution, Article III, §§2, 3.

26 USCS, §7402, Jurisdiction of District Courts.

28 USCS, §125, Organization of Courts.

28 USCS, §1332, Judiciary and Judicial Procedure.

Statutes of the State of Utah

Utah Code Annotated, 1953, as amended:

§78-2a-3(2)(k)

§78-27-56

Utah Rules of Appellate Procedure:

Rule 3, Rule 3(d), Rule 4, Rule 29, Rule 29(b)(12), Rule 33.

STATEMENT OF THE CASE

Nature of Case

In this case Appellants ask for a Decree Quieting Title in their favor and against Appellee on a certain parcel of real property located in Sevier County, Utah.

Appellee had acquired title at a supervised Court-ordered sale pursuant to judgment against Appellants who were designated as the Defendants in an action entitled, "United States of America, Plaintiff, vs. L. Shyrl Brown and Ila Dell Brown, United States District Court for the District of Utah, Central Division, Civil No. 89C-143J."

**Course of Proceedings and
Disposition in the Court Below**

Appellee filed a Motion for Summary Judgment and Appellants filed separate motions seeking (1) to amend their Complaint; (2) a summary judgment; and (3) for "status quo".

On June 8, 1994 the District Court entered an Order on the various motions: (1) authorizing amendment of the Complaint; (2) granting Summary Judgment against Plaintiffs (Appellants); (3) denying Appellants' Motions for (a) status quo; and (b) summary judgment; and (4) vacating "common law lien".

Appellants thereafter filed "Notice of Appeal" in the form of a "Petition for Writ of Mandamus" on the 14th day of June, 1994 and had the notice served upon Judge David L. Mower (Appendix A-1). Thereafter, a Docketing Statement clarifying their actions in these proceedings was certified to have been mailed on the 2nd day of July, 1994. (Appendix A-2)

The Supreme Court poured over this case to the Court of Appeals for disposition.

STATEMENT OF FACTS

1. Appellee observed notices of a Federal Marshal's sale of real property owned by the Appellants in Richfield, Sevier County, State of Utah. (R.23)

2. On the 16th day of September, 1993, he attended the public sale and did bid the sum of \$5000 for the described property which was the highest and best bid received. (R.24)

3. Appellee requested that the Deputy Marshal conducting the sale show his authority to conduct the sale. He was furnished a certified copy of a Judgment, Order of Foreclosure and Order of Sale executed by Bruce S. Jenkins, United States District Judge for the District of Utah, Central Division (R.24 and R.27, 28) a copy of which Judgment, Order of Foreclosure and Order of Sale is attached as Appendix A-3.

4. Appellee paid the \$5000 consideration to the office of the United States Marshal and received a receipt therefor. (R.32) A copy of the receipt is attached as Appendix A-4.

5. The United States Marshal did deliver to Appellee a Certificate of Purchase for the property described (R.34) which is attached as Appendix A-5 and by which he was advised that the sale would become absolute after a period of six (6) months unless redeemed.

6. The property was not redeemed on or before the 16th of March, 1994. (R.24)

7. On the 26th day of March, 1994, the United States Marshal issued to Appellee a United States Marshal's Deed (R.37) conveying the entire interest of Plaintiffs in the real property described and at issue in these proceedings, which deed was recorded April 5, 1994 in Book 286, Page 68 of the records of Sevier County, Utah, a copy of which is attached as Appendix A-6.

8. On the 27th day of April, 1994, Appellants served this Appellee with a Complaint seeking to quiet title and collaterally attacking the federal judgment and slandering title

to other property of Appellee, all of which required the Appellee to incur attorney fees and costs as well as personal expense in defending this pro se action. (R.1-5)

9. Appellants did file a separate document identified as a pleading in this case and entitled, "common law commercial lien" which lien identified other property owned by Appellee in Sevier County, Utah, a copy of which is attached hereto as Appendix A-7, having been filed in evidence on the 24th day of May, 1994.

The "common law commercial lien" prepared and filed by Appellants listed other properties owned by Appellee, Quinn Christensen, in the County of Sevier. It slandered the title of all of Christensen's property by describing the property specifically and then stating: "We seek a judgment against Christensen for \$1000 per day for each day we are denied property rights and estimate the value in good faith."

The document further stated: "This lien is attached to the above-described property in anticipation of a judgment to be secured by demandants from the Sixth District Court of Sevier County, State of Utah, Brown, et al. vs. Christensen, Civil No. 940600108QT..."

SUMMARY OF ARGUMENT

The facts relied upon in support of Appellee's Motion for Summary Judgment were uncontroverted.

Appellee acquired title to the real property at issue by reason of a Judgment, Order of Foreclosure and Order of Sale issued in an action by the United States of America, Plaintiff, vs.

L. Shyrl Brown and Ila Dell Brown, Defendants.

The Federal District Court is a Court of general jurisdiction for the District of Utah and had personal jurisdiction over both Defendants and jurisdiction over the subject matter of the action.

The Appellants did not in any way challenge directly the judgment decision and order of sale of the property issued by the Federal District Court but do now seek to challenge the judgment by collateral attack and the filing of a quiet title action. A judgment rendered by a court having jurisdiction of the parties and the subject matter is not subject to collateral attack.

Since Appellants' action and this Petition for Extraordinary Writ is frivolous and intended to harass Appellee, Appellee is entitled to an order dismissing the appeal or the Petition for Extraordinary Writ with an order that Appellee be reimbursed for costs, expenses and attorney fees incurred.

ARGUMENT

POINT I

APPELLANTS FAILED TO FILE A NOTICE OF APPEAL AND FOR THAT REASON THIS COURT IS WITHOUT JURISDICTION.

An ambiguous document filed by Appellants entitled, "Notice of Appeal" states: "The above-entitled matter is appealed to the Court of Appeals in the form of Petition for Writ of Mandamus." (See Appendix A-1)

The ambiguity was taken from the Notice of Appeal with the filing of a Docketing Statement (Appendix A-2). The Docketing Statement makes it clear the matter is not before the Court on appeal.

The document is designated "Petition for Writ of Mandamus to Judge David L. Mower, Sixth District Court for Sevier County."

The Docketing Statement further uses the following language:

We appreciate Mr. Butler's raising the question as to whether this appeal should be handled as a Petition for Writ of Mandamus and/or Appeal of Right. We address this issue first in this document. We believe this should be handled as Petition for Writ of Mandamus for the following reasons:...

The Appellants were also required to designate on the face of their brief a priority of argument as required by Rule 29 of the Utah Rules of Appellate Procedure. The Appellants designated a priority of 12. Rule 29(b)(12) designates the proceedings as:

(12) Original Writ proceedings.

Rule 3 of the Utah Rules of Appellate Procedure provide:

An appeal may be taken from a district...to the Appellate Court with jurisdiction over the appeal from all final orders and judgment...by filing a Notice of Appeal with the Clerk of the trial court within the time allowed by Rule 4.

Rule 4 provides:

The filing shall be within 30 days from the

date of entry of the judgment or order
appealed from.

Rule 3(d) also provides for the content of notice on
appeal:

(d) Content of notice of appeal. The notice
of appeal shall specify the party or parties
taking the appeal; shall designate the
judgment or order, or part thereof, appealed
from; shall designate the court from which
the appeal is taken; and shall designate the
court to which the appeal is taken.

The total notice given in the instrument filed by
Appellants is:

Please take notice, that the above-entitled
matter is appealed to the Court of Appeals
in the form of a Petition for Writ of
Mandamus.

The foregoing does in no way designate the judgment or
order or part thereof, appealed from. The notice requests relief
"in the form of a Petition for Writ of Mandamus."

It has been uniformly held that without notice of appeal
being given, the Supreme Court is without jurisdiction to hear the
matter. (Yost vs. State, 640 P2d 1044 [Utah 1981])

The following cases hold the Supreme Court cannot take
jurisdiction over an appeal which is not timely brought before it;
and an untimely appeal will be dismissed for lack of jurisdiction.
(Burgers vs. Maiben, 652 P2d 1320 [Utah 1982]; Bowen vs. Riverton
City, 656 P2d 434 [Utah 1982]; Nielson vs. Stoker, 669 P2d 390
[Utah 1983]).

Since the question of jurisdiction of a court can be
raised at any time or raised upon a court's own motion, these

proceedings should be dismissed with an award to Appellee for an action frivolously brought, contrary to Rule 33, Utah Rules of Appellate Procedure and in accordance with §78-27-56, Utah Code Annotated, 1953, as amended, which also provides for costs and expenses in case of an action brought frivolously or in bad faith.

POINT II

MOTION FOR SUMMARY JUDGMENT IN FAVOR OF APPELLEE WAS PROPERLY GRANTED.

- A) JUDGMENT AND ORDER OF FEDERAL DISTRICT COURT IN AND FOR THE DISTRICT OF UTAH WAS ENTITLED TO FULL CREDIT SINCE IT IS A COURT OF GENERAL JURISDICTION AND HAD JURISDICTION OVER THE PARTIES AND SUBJECT MATTER.**
- B) THE JUDGMENT OF THE FEDERAL DISTRICT COURT CANNOT BE COLLATERALLY ATTACKED.**

- A) JUDGMENT AND ORDER OF FEDERAL DISTRICT COURT IN AND FOR THE DISTRICT OF UTAH WAS ENTITLED TO FULL CREDIT SINCE IT IS A COURT OF GENERAL JURISDICTION AND HAD JURISDICTION OVER THE PARTIES AND SUBJECT MATTER.**

The Federal District Court of the State of Utah was created by the United States of America pursuant to Article III of the United States Constitution. The Court was specifically established by the use of the following language:

Section 1. The judicial power of the United States shall be vested in the Supreme Court and such inferior courts as Congress may, from time to time, ordain and establish.

Section 2. The judicial power shall extend to all cases in law and equity. . .

Pursuant to the Code of Laws of the United States of America, Title 28, Judiciary and Judicial Procedure, §1332 sets forth:

The District Court shall have original jurisdiction of all civil actions...

The Federal District Court granting the judgment and order against Appellants was organized pursuant to 28 USCS, §125: "Utah constitutes one judicial district comprising two divisions."

In addition to the foregoing general powers, the Federal District Court was granted specific jurisdiction over the enforcement of Internal Revenue laws by §26, USCS 7402, entitled Jurisdiction of District Courts:

(a) To issue orders, processes and judgments. The district courts of the United States at the instance of the United States shall have such jurisdiction to make and issue in civil actions, writs and orders of injunction and of *ne exeat republica*, orders appointing receivers, and such other orders and processes, and to render such judgments and decrees as may be necessary or appropriate for the enforcement of the internal revenue laws. The remedies hereby provided are in addition to and not exclusive of any and all other remedies of the United States in such courts or otherwise to enforce such laws.

The foregoing citations are to establish the fact that the United States Federal District Court with Judge Bruce Jenkins presiding, did have jurisdiction over the subject matter and the parties. The judgment was issued for the collection of income taxes. Further, the Federal District Court did have the authority to issue orders, processes and judgments necessary to collect the

judgment and, in addition, had general authority to adjudicate interests as between the Defendants in real property and to issue such supervised orders of sale or execution as were required.

The Judgment and Order of Sale of property has not been directly challenged by Appellants. Appellants argue the judgment was not valid against them basically because it was oppressive and cite many federal cases which do not appear to be relevant.

It is particularly noteworthy that the Defendants (Appellants herein) do not, by affidavit or otherwise, challenge jurisdiction of the Federal Court and do acknowledge they appeared and participated in the proceedings. A certified copy of the federal judgment (R.27,28, See Appendix A-3) recites:

This matter came on for trial before the United States District Judge, Bruce S. Jenkins, on February 4 and 5, 1991 with Kirk C. Lusty and John Frickel representing the United States and L. Sheryl Brown and Ila Dell Brown appearing *pro se*.

The Federal Court did enter a specific order with regard to the judgment granted and the foreclosure of the Federal Tax Liens on the real property which was owned by one or both of the Defendants.

As seen from the Judgment and Order of Sale issued, the District Court supervised an Order of Execution over the subject property.

A court of general jurisdiction has the inherent power to enforce its orders.

**B) THE JUDGMENT OF THE FEDERAL DISTRICT COURT
CANNOT BE COLLATERALLY ATTACKED.**

Appellants have not sought to attack the judgment granted by the Federal District Court by appeal or by motion but now seek to attack it collaterally by alleging they can relitigate the matter in a separate court by filing a quiet title action.

The uniform rule adopted unanimously throughout the United States is that a judgment rendered by a Court having jurisdiction of the parties and the subject matter, "is not open to contradiction or impeachment" by collateral attack. (See 49 CJS, §401, Collateral Attack, and the various state citations therein.)

The Utah case of Intermill vs. Nash, 75 P2d 157 (1938), reviewed the question of collateral attack. The Court first defined the term by stating:

The term "collateral attack" means the questioning of the validity of a judgment in a collateral proceeding; that is, a proceeding other than the one in which the judgment is entered, and which is not brought, instituted or maintained for the express purpose of modifying, setting aside, cancelling or enjoining the execution of a judgment.

The Court then stated:

On collateral attack the invalidity of the judgment must appear upon the face of the record. A judgment that is voidable cannot be attacked collaterally.

And further stated:

Any question, therefore, as to jurisdiction, or as to the validity of the judgment, which

does not show upon the face of the record must be raised and brought to the attention of the court by appropriate pleadings. Errors in the judgment, or judgments erroneously entered, where the court had jurisdiction of the res and of the parties, can only be reviewed or corrected by motion in that proceeding or by appeal.

Intermill, supra, did further hold that in collateral proceedings the question of voidability must be raised as the burden of the party asserting it and stated:

If it (record) is silent, then the presumption follows that what ought to have been done was not only done, but rightly done. In a collateral attack, the omission to affirm the jurisdictional fact upon the record will be supplied by the presumption that the court acted with due authority, and its judgment will be valid as though any fact necessary to jurisdiction affirmatively appeared. (Utah cases cited omitted.)

The doctrine of Intermill, supra, was reaffirmed by the Utah Supreme Court in the case of Bawden vs. Pearce, 414 P2d 578 (1966) which was a matter filed by landowners brought to enjoin the planning commission, its members and Director of Building Inspection Department from issuing further permits for the construction of a shopping center. The moving parties were Plaintiffs in a prior action where a judgment was granted requiring a Writ be issued directing the Salt Lake County Commission and its members, the Salt Lake Planning Commission and its members, and the Chief Building Inspector of Salt Lake County to consider and process the application for construction.

The Court dismissed the second action stating: "The relief sought by Appellants herein, if granted, would void that judgment in a collateral proceeding. This cannot be done." It cited Intermill, supra.

The same principle set forth in Intermill was again reviewed and approved in Olsen vs. Board of Education of the Granite School District, 571 P2d 1336 (Utah 1977).

The Supreme Court of Utah, through Justice Hall stated:

The principles of *res adjudicata* apply to judgments in condemnation proceedings as to matters therein litigated. Just as the rules governing the application of the doctrine of *res adjudicata* to judgments generally, the parties hereto are precluded as to all matters that were put in issue or might have been put in issue, or were necessarily implied in the decision...The doctrine renders a final judgment, on the merits, by a court of competent jurisdiction, conclusive upon the parties and is a bar to subsequent litigation of the same issues.

[4] The general rule of law is that a judgment may not be drawn in question in a collateral proceeding and an attack upon a judgment is regarded as collateral if made when the judgment is offered as the basis of a claim in a subsequent proceedings.

...

[5] A judgment may not be impeached in collateral proceedings, by a party or privy to it, for fraud, collusion, or false testimony. This rule is particularly applicable when the fraud was actually tried in the proceedings or so involved that it might have been tried.

Since the original judgment and order was from a Federal District Court, it should be noted that in the case of Edmonston

vs. Sisk, (1946) CA 10, Okla. (156 F2d 300), the Court held:

The truth of a Writ of Execution cannot be inquired into collaterally, but only upon motion to set it aside.

CONCLUSION

The Defendant has incurred attorney fees, expenses and costs in this action which can only be deemed as an action brought in bad faith and governed by §78-27-56, Utah Code Annotated, 1953, as amended, or was frivolously brought contrary to Rule 33, URAP.

Since the Appellants are representing themselves, they are held to the same standards as though they were qualified attorneys and required to recognize their action as ill-conceived. They are required to recognize that the District Court below had no jurisdiction to review a federal judgment entitled to full faith and credit. They are required to recognize that they have no right or authority to slander the title to other real property owned by the Appellee by filing what they designate as a "common law lien." They are also required to recognize that this Court has no jurisdiction over this "appeal" because of their failure to file a Notice of Appeal.

They are further required to know that their slanderous statements concerning Judge David L. Mower in their request for an extraordinary writ from this Court directing him to make decisions contrary to law, are not only inappropriate but without merit.

For the reasons stated in this brief, the Appellee requests the appeal of Appellants be dismissed and that he be

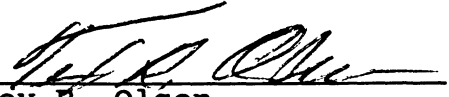
granted his costs and expenses incurred. In the event this Court elects to review matters here on appeal, Appellee requests that the final orders heretofore entered by David L. Mower, District Judge, be affirmed and Appellee be awarded his costs and expenses incurred in these proceedings.

The Affidavit of Tex R. Olsen concerning costs and expenses incurred in these proceedings is attached as Appendix A-8 for the consideration of the Court.

Respectfully submitted,

OLSEN, McIFF & CHAMBERLAIN

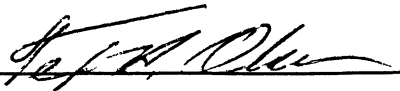
By


Tex R. Olsen

Attorney for Appellee

CERTIFICATE OF SERVICE

I hereby certify that four (4) copies of the foregoing Brief of Appellee were mailed to Leonard Shyrl Browm, Appellant, 490 North 100 West, Richfield, Utah (84702) and four (4) copies of the foregoing Brief of Appellee were also mailed to Ila Dell Brown, Appellant, 490 North 100 West, Richfield, Utah (84701) by U. S. Regular Mail, postage prepaid, on this 6 day of December, 1994.



APPENDIX

Leonard Shyrl Brown
Ila Dell Brown
490 North 100 West
Richfield, Utah 84701
801-896-4864

6TH DISTRICT COURT
SEVIER COUNTY
'94 JUN 14 PM 4 15
CLERK YJA

IN THE SIXTH JUDICIAL DISTRICT COURT OF SEVIER COUNTY
STATE OF UTAH

Leonard Shyrl Brown, et al., :
Plaintiffs, : NOTICE OF APPEAL
v : Civil No. 940600108QT
Quinn Christensen, : Judge David L. Mower
Defendant. :

PLEASE TAKE NOTICE, the above entitled matter is appealed
to the Court of Appeals in the form of Petition for Writ of
Mandamus.

DATED this 14 day of June, 1994.

 
Leonard Shyrl Brown Ila D. Brown

CERTIFICATE OF SERVICE

I certify I mailed a copy of this Notice to Tex R. Olsen,
Attorney, P. O. Box 100, Richfield, Utah, postage prepaid, U.S.
Mail, on this 15 day of June, 1994.


Leonard Shyrl Brown

APPENDIX A-1

Leonard Shyrl Brown
Ila Dell Brown
490 North 100 West
Richfield, Utah 84701
801-896-4864
in person

IN THE UTAH SUPREME COURT

Leonard Shyrl Brown and Ila Dell Brown,	:	DOCKETING STATEMENT
Plaintiffs and Appellants,	:	Subject to Assignment to the Court of Appeals
v	:	Appellate Court No. 940320
Quinn Christensen,	:	
Defendant and Appellee.	:	

PETITION FOR WRIT OF MANDAMUS TO JUDGE DAVID L. MOWER, SIXTH
DISTRICT COURT FOR SEVIER COUNTY.

We appreciate Mr. Butler's raising the question as to
whether this appeal should be handled as a Petition for Writ
of Mandamus or and appeal of right? We address this issue first
in this document. We believe this should be handled as a
PETITION FOR WRIT OF MANDAMUS for the following reasons:

1. The record decisions of Judge Mower are false,
presumptive and hopelessly inadequate for appeal. We believe
the record decisions and orders could not be that bad unless
there was actual bias and prejudice on the part of the judge.
The false statements must be corrected. The presumptions must
be voided and replaced with fact and law. The court decisions
must include decisions on all issues of applicable law. These
things are necessary in the interest of justice

a. Judge Mower recognized our request to amend our

APPENDIX A-2

the allegations, (1) lack of jurisdiction of the foreign court over our persons, (2) lack of jurisdiction of the foreign court over the real property owned by Ila Brown and (3) there is no law making Leonard LIABLE for any federal tax. Judge Mower's order states at p. 5,

1. Plaintiffs' Motion to amend their Complaint and specifically allege that the identified Marshal's Sale of Plaintiffs property was a "judicially-supervised sale" is hereby granted and considered in making the orders hereinafter following.

The Order bears no relationship to our position whatsoever. The Order is an outright lie. We allege lack of jurisdiction of the foreign jurisdiction court over our persons, over Ila's real property and over subject matter. We proved lack of jurisdiction in the lower court by our uncontested Memoranda. We never alleged the sale was a "judicially-supervised sale." We proved the alleged sale was in direct violation of the Utah Foreign Judgment Act and in direct violation of several parts of Rule 69, Utah Rules of Civil Procedure. Because the remainder of the order was "granted and considered in making the orders" and because the statement in #1 quoted above is absolutely false and fraudulent the remainder of Judge Mower' order is false and fraudulent. The record must be corrected and the fraud removed for appeal because of the higher presumption that the lower court record is correct.

b. Judge Mower refers to Ila's property as "Plaintiffs' property." That is the second absolute lie in the same sentence we quote in #a above. Ila is the sole owner of the real property

APPENDIX A-2

years old. The deed is not difficult to read and is uncontested. If there was an objection to the deed we could have verified it in Sevier County Recorder's Office only a short distance from the court room in the same building. Judge Mower should be ordered to state clearly and in detail his (alleged) authority and rationale for destroying Ila's recorded deed and rights to the real property.

c. There is an undecided MOTION to strike the foreign judgment for failure to pay the filing fee (Utah Code, 21-1-5(10)) pending before Judge Mower. He should be ordered to decide the issue.

d. Judge Mower refused to NOTICE Ila's deed to her property recorded in 1972. We believe this to be a most important fact and was never considered. The record is silent on that issue.

e. Judge Mower refused to allow us to mount what he called a "collateral" attack on the foreign judgment. Our attack on the foreign judgment is based on violations of law, fraud, lack of jurisdiction and lack of due process of law in the foreign jurisdiction court. He therefore ruled in direct opposition to precedent established by this court and the Court of Appeals. (See Data Management Systems v EDP Corp, 709 P2d 377 (Utah 1985); Holm v Smilowitz, 840 P2d 157, 164 (Utah App. 1992); Intermill v Nash, 75 P2d 157, 160 (Utah 1938)) Intermill was the only case cited by Judge Mower. The court should ORDER the lower court hear and decide our numerous attacks on the

APPENDIX A-2

and barriers to granting FULL FAITH AND CREDIT in Utah to the foreign judgment.

f. Our quiet title action is based almost entirely on law. We have attached a number of laws Judge Mower refused to decide to our Petition. Even this list is not exhaustive. Judge Mower refused to NOTICE and DECIDE the law, creating overwhelming bias and prejudice against Plaintiffs. If there is to be justice in this matter, we believe this court must ORDER Judge Mower to specifically NOTICE and DECIDE THE LAWS. Only then will the lower court record be perfected for appeal.

g. We understand this court WILL NOT hear appeals unless the issues appealed are raised and DECIDED in the lower court. We have done and are doing everything we possibly can to make certain the record proves we tried to raise the numerous issues of law in the lower court while demanding decisions on these same issues of law. We understand it is the duty of Judge Mower to decide the issues of law without bias or prejudice against Plaintiffs. A part of the record is this Petition for Writ of Mandamus to ORDER Judge Mower to DECIDE the laws presented. If the courts will not NOTICE and DECIDE the issues of law we raise, our civil action is hopelessly prejudiced.

h. The record is so bad that we ask this court to take NOTICE that Judge Mower has refused to place the alleged judgment of the U.S. District Court in that class of judgments which can not be directly enforced by the foreign jurisdiction but which must seek FULL FAITH AND CREDIT for enforcement by a Utah

APPENDIX A-2

i. We have filed our NOTICE OF DEFAULT with the court. More than ten (10) days have expired after Judge Mower was personally served a copy of our Petition for Writ of Mandamus. No objections or counter argument have been filed to this date to our knowledge by either Judge Mower or interested party Quinn Christensen. Therefore, the court should grant our demanded relief.

j. Grounds for our Petition for Writ of Mandamus are more fully set down in our Petition.

2. This Petition for Writ of Mandamus is absolutely necessary to correct the lower court record and to perfect the record for appeal, if necessary.

3. It appears this case may create considerable precedent. We can not find any case closely related to the fact or law in this civil action. We presume the reason is that other foreign judgments have followed the prescribed procedure at law for gaining full faith and credit and enforced according to the laws of Utah. We therefore urge the court to aid us by Mandamus in correcting the lower court record and in perfecting the case for appeal, if necessary.

4. On the other hand, we firmly believe that if Judge Mower is ORDERED by this court to NOTICE and DECIDE the issues of law we raise, without prejudice to Plaintiffs, he will reverse his own decision bringing a quick end to the quiet title action without the extensive expenditure of time, money and energy which would be required in an appeal of right.

APPENDIX A-2

justice, decide the law, correct the record and perfect the lower court record.

6. We can not find a court which will protect Ila's rights to her property and our rights to personal property therein. Numerous people have entered and exited Ila's property. We have definite indications that personal property has been stolen from the building. We demand protection of our property. We DEMAND THAT THIS COURT ACT IMMEDIATELY TO PROTECT OUR PROPERTY PENDING A FINAL DECISION ON THE OWNERSHIP OF THE PROPERTY. We demand immediate action.

THEREFORE, for the above reasons or any of them, this appeal should be considered as a Petition for Writ of Mandamus and the court should grant the relief we demand.

We now complete the outline docketing statement even though we consider it irrelevant for we understand the Petition for Writ of Mandamus requires no special form.

1. Date of entry of judgment June 15, 1994.
2. The court has not yet ruled on prejudgment motions.
 - a. Amendment of judgment - May 31, 1994. b. Stay - May 31, 1994. (Thus, our property and rights to property are unprotected. c. Strike the foreign judgment for failure to pay the filing fee - June 3, 1994. d. Analysis of Intermill v Nash - June 6, 1994. Our objections to the Order were filed June 17, 1994.
3. Rule 54(b) URCP appears to not apply. The only decision

APPENDIX A-2

foreign judgment or grounds of law, fraud, lack of jurisdiction or lack of due process of law. (See p.3, #1(e)) The purpose of this Petition is to correct and perfect the record of the lower court.

4. Notice of appeal was filed June 14, 1994.

5. This court has jurisdiction under Utah Code, 78-2-2(2), extraordinary writs.

6. Trial court. Sixth District Court of Sevier County, Judge David L. Mower, presiding.

7. Statement of facts and questions in on pages 1-5 above.

8. Review see #3 immediately above. In addition this court should consider that: (1) Notice of appeal was filed on June 14, 1994. (2) Judge Mower was personally served a copy and a copy of Petition for Writ of Mandamus on June 14, 1994. (3) Judge Mower's judgment was filed June 15, 1994 according to the copy sent to us by this court. Therefore, jurisdiction had transferred to the higher court prior to the filing of Judge Mower's Order. Therefore, the ORDER is invalid in want of jurisdiction.

9. The court should take care^{ly} see that all applicable laws are noticed and decided, that the lower court record is corrected and that the lower record is perfected for appeal. The court should also take care that we are granted immediate relief and that our property is protected from invasion, trespass theft or other unlawful acts. This case may become important precedent for future cases and the court should take care that

APPENDIX A-2

the record is true and correct and all appropriate laws are noticed and decided according to law.

10. Determinative law. Determinative law is cited in our petition but is not necessarily exhaustive. Determinative cases for purposes of this petition are found on p. 3, 1(e) above.

11. None.

12. None.


Leonard Shyrl Brown


Ila D. Brown

Plaintiffs, Appellants.

CERTIFICATE OF SERVICE

I certify I mailed a copy of this document to Judge David L. Mower, Sevier County Courthouse, 250 South Main, Richfield, Utah 84701 and to Tex R. Olsen, P.O. Box 100, Richfield, Utah 84701, postage prepaid, U. S. Mail, on this 2 day of July, 1994.


Leonard Shyrl Brown

APPENDIX A-2

DEE V. BENSON (0289)
United States Attorney
Room 466, U.S. Courthouse
350 South Main Street
Salt Lake City, Utah 84101
Telephone: (801) 524-5682

KIRK C. LUSTY
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 683
Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 307-6531

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

SEP 25 1991

I hereby certify that the annexed document is a true
and correct copy of the original on file in this office.

ATTEST: MARCUS B. ZIMMER
Clerk, U.S. District Court
District of Utah

By: S. V. Nelson
Deputy Clerk
Date: 10/1/91

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil No. 89C-143J
)	
L. SHYRL BROWN, et al.,)	
)	
Defendant.)	JUDGMENT, ORDER OF
)	<u>FORECLOSURE AND ORDER OF SALE</u>

This matter came for trial before United States District Judge Bruce S. Jenkins on February 4 and 5, 1991 with Kirk C. Lusty and John Pirkle representing the United States and L. Shyrl Brown and Ila Dell Brown appearing pro se. The Court previously entered its Memorandum Opinion and Order. Based on the Memorandum Opinion and Order judgment is entered as follows:

1. Against L. Shyrl Brown and in favor of the United States in the sum of \$190,404.89, plus interest and statutory additions as provided by law.

APPENDIX A-3

2. Foreclosing the Federal tax liens on the real property located at 46 West 100 North, Richfield, Utah. The legal description of that property is:

Comm. at a point 13.5 ft. E of SW Cor of Lot 1, Block 45, Plat "A", Richfield City Survey, N 48.9 ft., E 16 ft 8 in. S 48.9 ft., W 16 Ft. 8 in., to beg. containing approximately 818 square feet, situated in the Northwest quarter of the Southwest quarter of Section 25, Township 23 South, Range 3 West, Salt Lake Base and Meridian.

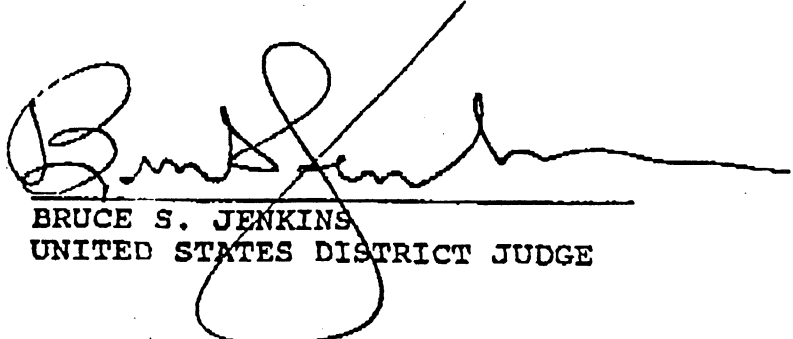
3. That the United States Marshal sell the real property identified in paragraph 2 and distribute the proceeds as follows:

- (a) First, to the costs of such sale;
- (b) Second, to the costs of this action;
- (c) Third, one-half to defendant Ila Dell Brown and one-half to the United States to be applied to the federal tax liabilities set forth in paragraph 1; and
- (d) Any remaining sum to defendant L. Shyrl Brown.

4. This Order of Sale shall act as a Writ of Execution.

Dated this 24 day of Sept, 1991.

BY THE COURT

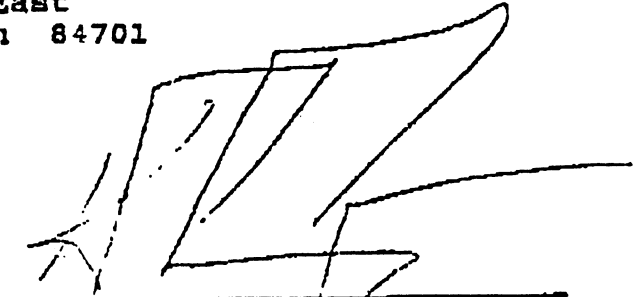


BRUCE S. JENKINS
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that service of the foregoing (proposed) JUDGMENT, ORDER OF FORECLOSURE AND ORDER OF SALE has this 6th day of September, 1991 been made on opposing parties by mailing a true and correct copy to the following:

L. Shyrl Brown
Ila Dell Brown
180 North 100 East
Richfield, Utah 84701

A large, stylized handwritten signature in black ink, appearing to read 'KIRK C. LUSTY', is written over a horizontal line.

KIRK C. LUSTY
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 683
Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 307-6531

RECEIPT

District of Utah

1. RECEIVED OF:

Quinn Christensen

2. DATE

9-16-93

3.

COURT/CASE NUMBER OR PURPOSE OF COLLECTION

4.

AMOUNT

Cash\$ 5,000.00Purchase of property

5. TOTAL

\$ 5,000.00

(Note: If check is received in mail and is for process, place in USM-286 folder)

6. RECEIVED BY (U.S. Marshals Service Official)

Lamara Cole

COPY 1—REMITTER

FORM USM-303 (Rev. 2/92)

1-5-93 - Ted Osborn
1-800-423-0719
1-800-423-0719

APPENDIX A-4

U.S. Department of Justice
United States Marshals Service
CERTIFICATE OF PURCHASE

United States of America,

District of Utah

89-C-143J

United States of America

ss:

vs.

L. Shyrl Brown, et al.,

I, Eugene H. Davis, United States Marshal of the
said District of Utah, do hereby certify that by virtue of a
~~Judgment Order of Foreclosure~~
~~Writ of Execution~~ issued out of and under the seal of the United States District Court
for said District of Utah, on the 24th day
of September, A.D. 19 91, in favor of the United States of America

Plaintiff,
and against L. Shyrl Brown and Ila Dell Brown

Defendant,
to me directed and delivered, I did, on the 12th day of August, A.D. 19 93,
levy upon, and did, on this the 16th day of September, A.D. 19 93,
sell at public sale (in the manner provided by law, and after duly advertising the same, according to the
Statute in such case made and provided), to Quinn Christensen

of Central Valley, in the
County of Utah, State of Utah, for the sum
of Five Thousand and 00/100 Dollars (\$5,000.00), dollars,

he being the highest and best bidder, and that being the highest sum bid for the same, at said sale,
all the right, title, and interest of the said Defendant L. Shyrl Brown and Ila Dell Brown

of which they w ere seized or possessed on the said, date of the said levy, or at any
time afterwards, of, in, and to all the following-described land situated in the

County of Sevier, State of
Utah, to wit: Comm. at a point 13.5 ft. E of SW Cor of Lot
1, Block 45, Plat "A", Richfield City Survey, N 48.9 ft., E 16 ft 8 in. S 48.9 ft.,
W 16 ft. 8 in., to beg. containing approximately 818 square feet, situated in the
Northwest quarter of the Southwest quarter of Section 25, Township 23 South, Range 3
West, Salt Lake Base and Meridian.

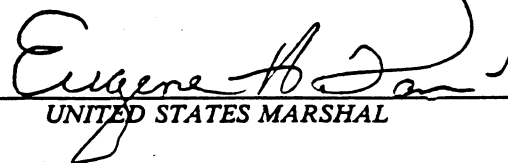
APPENDIX A-5

together with the hereditaments and appurtenances thereunto belonging.

And I do further certify, that the purchase money so bidden at said sale has been paid to me, and that the said sale will become absolute, and that the said purchaser or his assigns, will be entitled to a deed of conveyance of the said land on the 16th day of March, 1994

unless the same shall be sooner redeemed, according to the Statute in such case made and provided.

Given under my hand, this 27th day of September, A.D. 1993


UNITED STATES MARSHAL

For the _____ District of Utah

GPO 895-323

CERTIFICATE OF PURCHASE

Execution issued from the _____
Court for the _____ District
of _____

vs.

Filed and received for Record the _____
day of _____, A.D. 19
at _____ o'clock _____ m., and recorded in
Liber _____ of _____
on page _____

Recorder of Deeds
for the County of _____

APPENDIX A-5

UNITED STATES MARSHAL'S DEED 233034

This Indenture, is made and entered into this 28th day of March, 1991, between the United States Marshal for the District of Utah [hereinafter referred to as "United States Marshal"] in his official capacity, and Quinn Christensen of the Central Valley County of Sevier and of the _____ County of _____

Witnesseth, that on this 24th day of September, 1991, in the United States Court for the District of Utah, Plaintiff, recovered a judgment against L. Shyrl Brown and Ila Dell Brown Defendant, in the amount of \$ _____ plus costs of suit in the amount of \$ _____:

That on the 24th day of September, 1991, the United States District Court for District of Utah, issued a ~~Writ of~~ Judgment, Order of Foreclosure and Order of Sale directing the United States Marshal to collect that judgment;

That on 4th day of October, 1991, the United States Marshal did levy the writ upon a certain tract or parcel, hereinafter described;

That the same tract or parcel of land was first advertised for sale by the United States Marshal according to law, then sold at a public sale at Richfield, Utah Christensen P.C. Quinn Christensen, who bid the highest and bid in the amount of \$ 5,000.00.

Now Therefore, I, Eugene H. Davis, United States Marshal by virtue of my office and according to law, in consideration of \$ 5,000.00 in hand paid to me by Quinn Christensen, grant, bargain and sell all title, interest and claim which L. Shyrl Brown and Ila Dell Brown

Defendant, had in the following tract or parcel of land:

Comm. at a point 13.5 ft. E of SW Cor of Lot 1, Block 45, Plat "A", Richfield City Survey, N 48.9 ft., E 16 ft 8 in. S 48.9 ft., W 16 Ft. 8 in., to beg, containing approximately 818 square feet, situated in the Northwest quarter of the Southwest quarter of Section 25, Township 23 South, Range 3 West, Salt Lake Base and Meridian.

APPENDIX A-6

Entry No. 253034 Book 286
Recorded APR 05 1994 At 3:25 Page 68
Dorothy V. Henrie, Recorder Sevier County
Request of Quinn Christensen Fee \$12.00

To Have and to Hold, together with appurtenances thereto, to Quinn Christensen
and his/her heirs and assigns.

In Witness Whereof, I have hereby set my hand and seal this 28th day of March
1994.

Eugene H. Davis [S]
United States Marshal for the District of Utah

 District of Utah

I, Markus B. Zimmer, Clerk of the District
Court of the United States for the District of Utah
do hereby certify, that Eugene H. Davis
the United States Marshal for the District of Utah
whom I recognize as the United States Marshal, this day personally appeared before me and acknowledged
he executed this Deed of Conveyance as the United States Marshal, for the uses and purposes stated therein.

In Witness Whereof, I have hereby set my hand
affixed the Seal of the District Court
Court, at the City of Salt Lake City
in the District of Utah this day of March, 19 .

Leonard Shyrl Brown and Ila Dell Brown :
490 North 100 West, Richfield, Utah 84701 : COMMON LAW
Demandants, : COMMERCIAL LIEN
vs :
Quinn Christensen, 155 South Old Hwy 89, : SERVICE BY U.S.
Central Valley, Utah 84754 : MAIL, CERTIFIED
Respondent. : No. P 009 044 889
AMOUNT OF LIEN - \$1,000.00 per day

This Common Law Commercial Lien is on all property owned or jointly owned by Respondent Quinn Christensen or in which he has rights, titles or interest within Sevier County, Utah, together with all buildings, structures, sheds, improvements, water, water rights, ditches, ditch rights, springs appurtenant to or belonging to the described property.

Parcel 1. The Northeast quarter and the West Half of the Southeast Quarter of Section 33, Township 23 South, Range 2 West, Salt Lake Base and Meridian, containing 240.0 acres.

Parcel 2. Beginning at the Southeast Corner of Section 28, Township 23 South, Range 2 West, Salt Lake Base and Meridian and running thence West 20.0 chains; thence North 50.0 chains; thence East 20.0 chains; thence South 50.0 chains to beginning, containing 100.0 acres.

Parcel 3. Commencing at the Northeast Corner of the Northwest Quarter of Section 4, Township 24 South, Range 2 West, SLB&M; and running thence South 20 chains, thence West 8 chains, thence North 1.05 chains, thence North 70° 30' West 12.70 chains, thence North 14.85 chains, thence East 20 chains to beginning.

Serial No. 4-279-6

Parcel 4. The Southeast Quarter of the Northwest Quarter of
Section 33, Township 23 South, Range 2 West, SLB&M. Serial No.
4-229-5

Parcel 5. The East half of the Southwest Quarter of Section 33, Township 23 South, Range 2 West SLB&M. Serial No. 4-229-6

This lien is attached to the above described property in anticipation of a judgment to be secured by Demandants from the Sixth District Court of Sevier County, State of Utah, Brown, et al. v Christensen, Civil No. 940600108 QT, which Demandants believe, in good faith, will be owned by Respondant.

Notice is hereby given to the Respondant that Demandants files this Common Law Commercial Lien for the purpose of protecting and securing the equitable interest the Demandants have in said property. The cause for this action is as follows: Respondant did, on or about 04/22/94, file a Criminal Trespass Complaint with the Richfield City police. Officer V. Sickles, Richfield City police, informed Leonard Brown by telephone and later Ila

and Leonard Brown in person that if we entered the building at 46 West 100 North, Richfield, Utah, we would be imprisoned. The property is owned by Ila Brown by recorded deed since 1972. Thus we have been unlawfully denied rights, possession, use comfort and enjoyment of the property. The above civil action is to quiet title in Ila Brown or in Leonard and Ila Brown. We seek a judgment against Christensen for \$1,000.00 per day for each day we are denied property rights and estimate the value in good faith.

The Respondant's rights and Waiver of Rights: Under the U.S. Constitution, Amendment 7, the Respondant may file a "Suit at Common Law," to remove this Lien. Under Common Law rules the case must be tried before a Jury. No judge can act on a motion to Dismiss or vacate this Lien, which would come from Chancery or Equity, and any judge who does so, acts without jurisdiction and is immediately fully liable to Demandant for all damages requested herein. Said Jury Trial cannot allow Motions in Limine or Directed Verdicts, as they were not allowed under Common Law. In the event that the Respondant fails to challenge this Lien by filing a "Suit at Common Law," within ninety (90) days from the date of service of this Lien, this Lien shall become a perfected Lien. Should the Respondant file a "Suit at Common Law," the Jury shall have full power to sustain, modify or vacate this Lien.

DATED: this 5th Day of May, 1994.

Leonard Shyrl Brown *Ila Dell Brown*
Leonard Shyrl Brown, Demandant Ila Dell Brown, Demandant

AFFIDAVIT

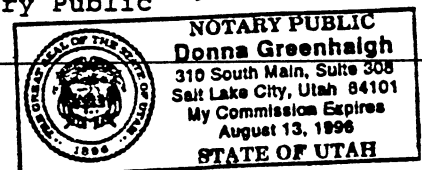
I, Leonard Shyrl Brown and I, Ila Dell Brown, being duly sworn on Oath affirm that all information and statements in the Common Law Lien and attached paper are true and correct, to the best of my knowledge and belief. All statements made herein are made in good faith and in the interest of justice.

Leonard Shyrl Brown *Ila Dell Brown*
Leonard Shyrl Brown Ila Dell Brown

State of Utah :
County of Sevier : ss

Subscribed and sworn to before me this 5 Day of May, 1994.

Donna Greenhaigh
Notary Public



Entry No. 259484 Book 287
Recorded MAY 05 1994 At 9:50 Page 280
Dorothy V. Henrie, Recorder Sevier County
Request of L. S. Brown Fee \$18.00

(MEMORANDUM OF COMMON LAW

1. "The 'common law' is all the statutory and case law background of England and the American Colonies before the American Revolution. As distinguished from law created by enactment of legislatures, the common law comprises, with the body of those principles and rules of action, relating to the government and security of persons and property, which derive their authority solely from usages and custom of immemorial antiquity... particularly the ancient unwritten law of England." Black's Law Dictionary, 5th Edition, 1979.
2. Common Law Lien: "One known to or granted by the common law, as distinguished from statutory law, equity, and maritime liens; It is the right extended to a person, to retain that which is in his possession, allegedly claimed by another, until the demand or charge of the person in possession is paid and satisfied. Whiteside v. Rocky Mountain Fuel Co., C.C.A. Colo., 101 F. 2nd 765, 769." Black's Law Dictionary ibed.
3. "A lien on property by operation of the common law, may have precedence of an existing mortgage." Drummand Carriage Co. v. Mills (1898), 74 N.W. 966, McMahon v. Lundin 58 N.W. 827, Carr v. Dial 19 S.E. 235.
4. "In suits at common law, found in this clause, is used in contradistinction of equity, admiralty, and maritime jurisprudence.... It is well known that in civil causes in courts of equity and admiralty juries do not intervene.... When, therefore, we find that the amendment requires that the right to trial by jury shall be preserved, in suits at common law, the natural conclusion is that this distinction was present in the minds of the framers of the amendment. By 'common law' they meant what the Constitution denominated in the Third Article 'law;' not merely suits... but suits in which legal rights were to be ascertained and determined, in contradistinction to those where equitable rights alone were recognized,: Parsons v. Bedford, 3 Pet. 452.
5. "It follows from the foregoing that every civil action provided by State Statute, not of equity and admiralty jurisdiction is a suit of common law, within the meaning of the Seventh Amendment, and that the U.S. Courts, if they assume jurisdiction in such an action at all, must afford a jury trial, even though this is contrary to the spirit and letter of the State Statute." Klever v. Seawall, 65 F. 393.
6. "The courts of the United States are bound to recognize and enforce the common law. U.S. v. Marchant 25 U.S. 480, 12 Wheat, 480, 6 L.Ed. 700., affirming U.S. v. White, Fed. Case No. 16,682.4 158." 4 Supreme Court Digest 676.
7. "State judges may be found criminally liable for violation of civil rights. 18 U.S.C.A. 242; 42 U.S.C.A. 1983; Dennis v. Sparks, 101 S. Ct. 183, 449 U.S. 24, 66 L. Ed. 2nd 185." 9 Supreme Court Digest 173. (1980)

IN THE COURT OF APPEALS OF THE STATE OF UTAH

* * * * *

LEONARD SHYRL BROWN AND)	
ILA DELL BROWN,)	
)	
Plaintiffs-Appellants,)	Case No. 940693-CA
)	
-vs-)	
)	Priority No. 12
QUINN CHRISTENSEN,)	
)	
Defendant-Appellee.)	

* * * * *

AFFIDAVIT OF TEX R. OLSEN IN SUPPORT
OF COSTS AND EXPENSES

* * * * *

STATE OF UTAH)
 : SS.
COUNTY OF SEVIER)

TEX R. OLSEN, being first duly sworn, deposes and says:

1. He is the attorney for Defendant-Appellee, Quinn Christensen in these proceedings and has personal knowledge of costs and expenses incurred.

2. Since the conclusion of the proceedings in the District Court, Appellee has incurred the following:

<u>Date</u>	<u>Work Completed</u>	<u>Hours</u>
11-23-94	Complete review of documents filed with Supreme Court by Brown and securing Court record; review of entire record; case review on questions of jurisdiction and collateral judgment	6

federal District Court; research concerning authority of United States of America through the Department of Internal Revenue to use Federal District Court; review of Utah Rules of Appellate Procedure 4

11-29/30-94

Writing brief on appeal for Appellee, including preparing Appendix, indexing the record 8

Attorney fees charged Appellee at the rate of \$100 per hour which is a reasonable rate for the work requested \$2000.00

Expenses Incurred:

15 copies of Appellee's Brief printed; brief with appendix includes 43 pages at \$3.00 per page \$ 129.00

Anticipated Costs and Expenses:

Oral argument and travel from Richfield to SLC and return, 330 miles (8 hours) \$ 800.00
(330 @ .25 per mile) \$ 82.50

TOTAL ATTORNEY FEES, COSTS AND EXPENSES: \$3011.15

DATED this 1 day of December, 1994.


Tex R. Olsen

Subscribed and sworn to before me, a Notary Public, on this day and year first above written.


Notary Public

Residing At: Richfield, Utah
My Commission Expires: 7-10-95

