

1994

Carroll C. Nichols v. Box Elder Board of Education,
Box Elder County School District, and Darrell K.
White, Superintendent, Utah State Office of
Education, Utah State Retirement Office and, State
of Utah : Brief of Appellee

Utah Court of Appeals

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Robert B. Hansen; attorney for appellant.

Reed W. Hadfield; Mann, Hadfield & Thorne; Kevin A. Howard; Howard & Associates; John S. McAllister, Thomas D. Roberts; attorneys for appellees.

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IN THE UTAH COURT OF APPEALS

FILED
Utah Court of Appeals

CARROLL C. NICHOLS,
Plaintiff and Appellant

NOV 28 1994

Marilyn M. Branch
Clerk of the Court

vs.
BOX ELDER BOARD OF EDUCATION,
BOX ELDER COUNTY SCHOOL
DISTRICT, and DARRELL K.
WHITE, Superintendent,

CASE NO. 940555-CA

Defendants and Third Party
Plaintiffs and Appellees

UTAH COURT OF APPEALS

Priority No. 15

UTAH STATE OFFICE OF EDUCATION,
UTAH STATE RETIREMENT OFFICE and,
STATE OF UTAH

UTAH
DOCKET NO.
KFU
50

Third Party Defendants
and Appellees.

.A10

DOCKET NO. 940555

AMENDMENTS TO BRIEF OF THIRD PARTY APPELLEE
UTAH STATE RETIREMENT OFFICE

APPEAL FROM JUDGMENT OF FIRST DISTRICT COURT
BOX ELDER COUNTY, STATE OF UTAH
THE HONORABLE CLINTON S. JUDKINS

Robert B. Hansen, [1344]
Attorney for Plaintiff/Appellant
838 - 18th Avenue
Salt Lake City, UT 84103

Kevin A. Howard, [4343]
HOWARD & ASSOCIATES
Attorney for Third Party
Defendant/Appellee, Utah
State Retirement Office
560 East 200 South, #230
Salt Lake City, UT 84102

Reed W. Hadfield [1289]
MANN, HADFIELD & THORNE
Attorneys for Box Elder School District,
Third Party Defendant/Appellee
P.O. Box 876
Brigham City, UT 84302-0876

John S. McAllister [2140]
Assistant Attorney General
Attorney for Third Party Defendants/Appellees
50 South Main Street, #1300
Salt Lake City, UT 84101

Thomas D. Roberts [2773]
Assistant Attorney General
Attorney for State of Utah, Third Party Defendant/Appellee
236 State Capitol
Salt Lake City, UT 84114

Comes now third party appellee, UTAH STATE RETIREMENT OFFICE, to submit its Amendments to Brief of Third Party Appellee Utah State Retirement Office as follows:

Page 2, paragraph 1, insert reference to the Record at page 45 at the end of the paragraph.

Page 2, paragraph 2 is amended to read as follows:

Plaintiff's Second Amended Complaint asserted three claims for relief: (1) breach of express contract, (2) breach of regulations based on an implied in fact contract, and (3) unjust enrichment. (R. 322-323). The trial court granted Defendants' and Third Party Defendants' Motion for Summary Judgments on claims (1) and (2) on December 3, 1993. (R. 411-412). On April 8, 1994, the trial court also dismissed with prejudice claim (3) on the grounds of no cause of action. (R. 452-453).

Page 3, paragraphs 1, 2, and 3 insert reference to Record at page 232 at the end of the paragraphs.

Page 3, paragraph 4, insert following language at the end of the paragraph: "(Unable to cite to Record because document was not contained in Record.)"

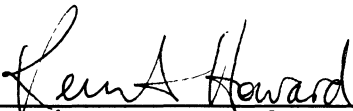
Page 3, paragraph 5, insert following language at the end of the paragraph: "(Filed with the Supreme Court.)"

Page 4, paragraph 6 is amended to read as follows:

At the outset of this controversy, the Retirement Office was not included as a party. This joinder was effectuated much later, never at the instigation of Nichols, and was based on the following theory proffered in Third Party Defendant Darrell White's and Box

Elder County School District's Third Party Claim against the Retirement Office: All "savings" which were realized by Box Elder County School District and forwarded to the State Office of Education were transferred to the Retirement Office, and as the repository of that money, the Retirement Office may have liability to return that money to the retirees pursuant to a local school district contract. (R. 45).

DATED this 28th day of November, 1994.



Kevin A. Howard, Attorney for
Utah State Retirement Board