

1995

# Marvin Jarvis v. Dan L. Baker and Linda Thiessens : Reply Brief

Utah Court of Appeals

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IN THE UTAH COURT OF APPEALS

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MARVIN JARVIS, :  
 :  
 Plaintiff/Appellee, : Case No. 950130-CA  
 :  
 v. :  
 :  
 DAN L. BAKER and LINDA : Priority No. 15  
 THIESSSENS, :  
 :  
 Defendants/Appellants. :

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REPLY BRIEF OF APPELLANTS

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APPEAL FROM THE FINAL JUDGMENT OF THE FOURTH  
JUDICIAL DISTRICT COURT OF WASATCH COUNTY,  
STATE OF UTAH, THE HONORABLE GUY R.  
BURNINGHAM, PRESIDING

**UTAH COURT OF APPEALS  
BRIEF**

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DOCKET NO. 950130

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**FILED**  
Utah Court of Appeals

MAY 02 1990

Marilyn M. Branch  
Clerk of the Court

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REPLY BRIEF OF APPELLANTS

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REPLY TO PLAINTIFF JARVIS'S ARGUMENT

Jarvis argues that defendants do not come within Utah Code Ann. § 78-40-5 (1992) because their improvements to the property in question were not made under color of title or in good faith. His entire argument rests on two assumptions: (1) defendants did not hold title to the property until August 1992 (the date of a quitclaim deed from Giles Bros., L.C., to Linda Thiessens); and (2) defendants did not make the improvements until after Jarvis had filed a lis pendens concerning the property. But, the trial court never made any findings as to when defendants purchased the property from Giles Bros. and thus held title to the property (which is not established by the date of the quitclaim deed), or when defendants made the improvements to the property.


Therefore, this case must be remanded to the trial court for entry of those necessary findings, without which a ruling concerning the application of section 78-40-5 is impossible. The court may well have to receive additional

evidence for purposes of this determination.

**CONCLUSION**

For the foregoing reasons and those set forth in defendants' opening brief, this Court should remand this case to the trial court for a determination of whether defendants are entitled to recover for their improvements under section 78-40-5.

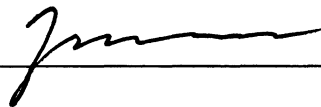
RESPECTFULLY submitted this 1st day of May, 1995.

  
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**CERTIFICATE OF SERVICE**

I hereby certify that two true and accurate copies of the foregoing Brief of Appellants were mailed, postage prepaid, to S. Junior Baker, Baker & Hicken, Attorneys for Appellees, 40 South Main Street, Suite 10, P.O. Box 306, Spanish Fork, Utah 84660-0306, this 1st day of May, 1995.

  
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