

2006

Allen v. Dimeo : Reply Brief

Utah Court of Appeals

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Mary C. Corporon; Allison R. Librett; Corporon and Williams; Attorneys for Appellee.
Cari Allen; Representing Herself Pro-Se.

Recommended Citation

Reply Brief, *Allen v. Dimeo*, No. 20060906 (Utah Court of Appeals, 2006).
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IN THE UTAH COURT OF APPEALS

CARI ALLEN,

Plaintiff/ Appellant,

v.

DIANE DIMEO and DANIELLE FERRARI

Defendants/ Appellees.

Appellate Court Case No.
20060906-CA

Lower Court Case No. 060700193 and
Lower Court Case No. 060700194

APPELLANTS REPLY BRIEF

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FILED
UTAH APPELLATE COURTS
MAY 07 2007

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The Appellant, Cari Allen, pursuant to Rule 24 (c) of the Utah Rules of Appellate Procedure, submits the following Reply Brief.

ARGUMENT

POINT I. THE INFORMATION PRESENTED BY APPELLEES' REQUIRE THE COURT TO SET ASIDE THE SUMMARY JUDGMENT

Appellees' statement of facts, argument and information indicates the extent to which the parties differ in their views and underscores genuine issues of material facts remaining in dispute. Further, Appellees' have mischaracterized and or misstated much of the information about Rex and Renee Strand's divorce proceeding, the information provided by both the Appellant and themselves to the Trial Court as well as the effect of those statements and information on the ultimate decisions of the Trial Court. Appellant sets forth the following for clarification to this Court:

A. REPLY TO PRELIMINARY MATTERS

The Appellees' erroneously represent and or infer to this Court throughout their brief that the information and allegations contained in the GAL's Memo for TRO was credible, fully and fairly investigated and that her motion for TRO was granted. These representations are false. The GAL based her motion on the allegations of the accusers, never interviewed her clients, nor any one else, but the accusers, and omitted March 18, 2006 exculpatory information from her own investigator Olivia Phelps home visit and the Appellees' October 2005 letters. More importantly, the GAL's Motion, offered and submitted in bad faith, was denied and subsequently, shortly after the hearing on said motion, the GAL resigned from her position as advocate for the children [See Addendum 2-3]. Rex Strand's visitation was not

modified and he has been exonerated by Utah Court's of all the allegations/charges against him.

B. THE FEBRUARY 2006 LETTERS OF THE APPELLEES' WHEREIN THEY ACCUSE ALLEN OF VARIOUS ACTS OF CHILD ABUSE WERE NOT SUBMITTED TO THE GAL AS PART OF ANY INVESTIGATION, INTERVIEWS OR INQUIRY AND DO NOT MEET THE JUDICIAL PROCEEDING PRIVILEGE.

In arguing that Allen v. Ortez 802 P. 2d at 1307 (Utah 1990) is distinguishable from the facts in the instant case, intent on misleading this Court, throughout the Appellees' brief they erroneously represent (for the first time) that: (1) first, due to the high conflict and divergent views of the parties, the GAL initiated an investigation to gather independent third party information, (2.) second, that as part of that investigation the GAL interviewed the Appellees', (3) third, that the Appellees' then submitted to the GAL letters outlining their concerns based on said interviews, (4) fourth, then GAL obtained affidavits from the Appellees' concerning the living conditions of the minor children, (5) fifth that these letters and affidavits were then attached to the GAL's motion for a temporary restraining order against Rex Strand. And (6) Thus, the Appellees were acting as witnesses in the Strand divorce action.

First, it should be noted that this particular GAL was not appointed to the divorce case until January 30th 2006 and in her memo she complains of numerous phone calls from "Respondent, Petitioner, the minor children and extended family members". Neither Rex Strand, the Appellant nor Mike Strand ever once contacted or tried to contact the GAL as documentd by Rex Strand in his divorce proceeding by supplied phone records and thus her

complaints were not directed at them. leaving only Renee Strand and the Appellees' as the offending parties.

The GAL never did return the children's phone calls nor did she ever meet with them or interview them regarding the allegations. Secondly, contrary to what the Respondents erroneously contend, the undisputed facts, evidence and inferences show that the letters, dated mere day's after the GAL's appointment, were unsolicited, and were, in fact, submitted to the GAL and others in a misguided effort to use Ms. Allen as a pawn in the Appellees' own personal dispute's with Rex Strand because of his failure to acquiesce to Appellees' requests to let them take the children to stay at their homes during his visitation, where as per the invitations, he could visit but not stay.

The fact remains, when Rex Strand's children expressed a strong preference to stay at Allen's home in November 2005 with their father, and did not want to stay at either of the Appellees' homes during their visitation time with their father of which he was not invited, both Appellees' who in October 2005 wrote letters in favor of Rex Strand

[Dimeo Complaint R. 26-27, Ferrari Complaint R. 25-27], changed their position to that of Renee Strand's and this is what in fact led to the Appellees' February 2006 letters. [Dimeo Complaint R. 2/10, 3/ 11-14, 4/14-15] [Ferrari Complaint R. 2/11-15, 3/16-21, 4/22-23].

Based on the allegations against Allen and select others, set forth in Appellees' February 2006 letters, March 23, 2006 affidavits and Renee Strands affidavit dated March 24, 2006, the GAL then purportedly conducted an investigation into said allegations which was limited to speaking only with the Appellees' and the divorcing petitioner (Renee Strand) who each substantiated and corroborated each other's fabricated allegations, and then, and only then did the GAL file her motion.

Appellees' February 2006 letters [Dimeo Complaint R. 29-30, Ferrari Complaint R. 29-31] do not reference that they were written to outline their concerns based upon a purported GAL investigation, interviews or inquiries, in fact on their face the letter's demonstrate that the GAL was not aware of who the Appellees' were as the Appellees' each made an introduction. Secondly the letter's demonstrate that the GAL was not aware of the facts of the divorce proceeding nor the Appellees' allegations or concerns as of the date of their letters. Furthermore, Appellee Dimeo's letter was addressed "To whom it may concern". Additionally it defies logic that subsequent to her appointment on January 30, 2006, this GAL immediately focused all her time, effort and attention to this particular divorce proceeding, conducting interviews and inquiries to result in letters, the first of which is dated a mere 14 day's after said appointment.

An examination of the documents and evidence submitted to the Trial Court, the trial transcript and the Court's order exhibits that the Appellees' never raised the issue that said letters were purportedly written and sent to the GAL in February 2006 as part of an investigation, based on interview's and or inquiries and clearly demonstrate that the Trial Court did not make such a finding.

The Utah appellate court has reiterated many times that they will not consider issues raised for the first time on Appeal. Appellant maintains that that the letters were unsolicited, sent to the GAL and others before any purported investigation, interviews and inquiries, thus the similarities between the letters written and distributed by the Appellees' in February 2006 and the letters written by the social worker in Allen v. Ortez are indistinguishable.

In Allen v. Ortez, the Defendants moved to dismiss on two grounds. First, they claimed that Utah's child abuse reporting statutes grant them immunity for the letters and second,

they claimed that no libel charge could be based on the letters sent to Mr. Ortez's attorney and to the commissioner because the common law privileges statements made by witnesses and other participants in the course of a judicial proceeding. In the case at bar, the Appellees' moved to dismiss Cari Allen's complaint only on the ground of the common law privilege. Now, without ever asserting that the reports were made in good faith to either the Trial Court or this Court, (as the social worker did in *Allen v. Ortez*), Appellees' erroneously contend to this Court an issue that they never made to the Trial Court, that being that their reports of child abuse made to the Guardian ad litem should suffice as a report made pursuant to Utah's Child abuse reporting statutes.¹ However, the Utah Supreme Court in *Allen v. Ortez* weighed heavily on the relevance and strict adherence to immunity given by Utah's child abuse reporting statutes in such instances and resolved these issues, reiterating that: " We must not give the statute a broader interpretation than is necessary to effectuate its purposes. To do otherwise would be to sanction potentially widespread libel." .

Moreover, as also succinctly stated by *Allen v. Ortez*, the purpose of the child abuse reporting statutes is to facilitate detection, investigation, prosecution, and prevention of child abuse by governmental agencies charged with those responsibilities, and the Appellees' erroneous interpretation of Utah's child abuse reporting statutes does not conform to the actual language which designates that reports can only be made and must be made to peace officers, law enforcement agencies or office of division of family services. It is the

¹ This issue is also mirrored in an article in the Salt Lake Tribune where a prosecuting attorney resigned after he was charged by the State of Utah for receiving information of child abuse and did not pass it on to DFS as prescribed by law. [See Addendum ⁴]

divisions preview to inform GAL's of allegations, after they conduct an investigation, not accusers seeking to avert the statutes and incite a biased GAL investigation (this is not an informal nicety it is Utah state law). As a matter of law, Guardian ad litem's are not the governmental agencies charged with the responsibilities as outlined in said statutes, in fact, Guardian ad litem's are completely omitted from Utah's Child Abuse reporting/ investigating statutes for good cause.

Comparable to this case, wherein the Appellees' sent letters to the children's attorney and argue that in sending the letter's they were acting as potential witnesses in a future custody modification proceeding, in Allen v. Ortez, the social worker sent the letters and reports to the Commissioner and to the father's counsel in the divorce proceeding and argued that in sending the letters, she was acting as a potential witness in the already initiated custody modification proceeding. On review, the Utah Supreme Court in Allen v. Ortez, concluded that as a matter of law the social worker was not acting as a potential witness and found that neither she nor any of the other defendants could satisfy the third element of judicial privilege. As such, this precedent renders Appellees' arguments moot, they could not and cannot satisfy the third element with regard to these letters.

The Utah Supreme Court in Allen v. Ortez also concluded that there was no need to determine whether the first and second elements of the privilege are met because the social worker was not a witness at the time she sent the letters, and found that neither she nor any of the other defendants whose liability is dependent upon her was entitled to claim the common law privilege. Because the Appellees' were not witnesses at the time they sent their February 2006 letters they also are not entitled to claim, nor avail themselves of the common law privilege.

For these reasons, and the reasons set forth in Allen's initial Brief, this court must, therefore, reverse and remand.

C. THE AFFIDAVIT'S OF THE APPELLEES' PREPARED BY THE GAL WHICH SHE THEN RELIED UPON TO SUPPORT HER MOTION WHEREIN APPELLEES' ACCUSE ALLEN OF VARIOUS ACTS OF CHILD ABUSE DO NOT MEET THE JUDICIAL PROCEEDING PRIVILEGE.

Both Appellees' deliberately, willfully and maliciously, under oath made multiple false statements about Allen in their affidavits. They did so in order to substantiate the fabrications in their February 2006 letters and to provide false evidence for the GAL solely for the purpose of inducing her to act upon it, instigating themselves the custody modification proceeding in order to satisfy their own ulterior motives. The content's of their affidavits parrots their February 2006 letters and were put forth to buttresses Renee Strands claims against Rex Strand in which Rex Strand has been exonerated in Utah Courts. The bad faith statements made by the Appellees' were in violation of the child abuse reporting statutes and had a duality of purpose, not only to cost Rex Strand his visitation rights but to also generate future criminal charges against Allen without the benefit of DFS or law enforcement involvement, legitimate investigation or due process rights.

The Appellees' had no value as witnesses to the GAL's motion which the Appellees' represent to this Court, the GAL filed on the basis that Rex Strand purportedly persisted in involving the minor children in the divorce, (a far cry from the allegations of child abuse). Further, any purported information Appellees' could give about conversations, behavior, etc.. that purportedly took place privately between the Appellant, Rex Strand and his children would surely be inadmissible hearsay as neither Appellant was a witness to the claims they assert, fabricated and concocted.

More importantly, as per the Appellees', the GAL's motion, investigation and inquiries were sparked by this wrongful assertion of involving the minor children in the divorce and exhibits that the Appellees' letters preceded said complaint by approximately 30 days, and said letters omit any reference of any attempt to involve or inform the children of events concerning the divorce proceeding.

As this allegation was not raised by the Appellees' February 2006 letter's and in fact was blindly raised for the first time in Appellee Ferrari's March 23, 2006 affidavit, in an effort to substantiate Ferrari's blind assertion where no example was given, Renee Strand's March 24, 2006 affidavit alleged that Emily Strand was purportedly exposed to her (Renee Strand's) March 23, 2006 affidavit. In her motion, the GAL relies on Renee Strand's affidavit and substantiates it through Ferrari's (premature) affidavit. Thus, these facts conclude that any investigation into an act that could not have taken place on or before March 23, 2006 in fact had to take place after said date. Since the GAL's motion was filed on March 27, 2006 it can be concluded that said investigation and inquiries never have occurred. Since Ferrari's affidavit with this allegation was dated March 23, 2006 and Renee Strand's subsequent affidavit dated March 24, 2006 complains about Emily being exposed to her (Renee Strand's) March 23, 2006 affidavit, taking into consideration mailing time to Rex Strand's attorney and then dissemination to Rex Strand, the time line is obviously flawed rendering the concocted allegation of Ferrari premature and erroneous, as neither Allen nor Rex Strand had possession or access to Renee Strand's March 23, 2006 affidavit the day it was filed nor the day after, rendering Renee Strand's March 24, 2006 allegation and sworn substantiation erroneous as well. Moreover, allegations of exposing Emily to an affidavit is far removed from the allegations of child abuse that the Appellees' accused Allen with.

Appellee's affidavits were not admitted into evidence. Appellees' testimony was not proffered at a hearing, nor have Appellees' ever taken the stand and given testimony in Rex Strand's divorce proceeding. The hearing on the GAL's motion was held in camera and Allen was not allowed to attend, as per the GAL's request. Also, neither of the Appellees' were even at the Court house the day of the hearing. Further, Allen filed an affidavit refuting the allegations of the Appellees' and the GAL whereupon the GAL refused personal service throwing said affidavit on the floor, and said affidavit was stricken from the record for lack of standing.

Because of said lack of standing in the divorce proceeding, the unusual personal involvement between the GAL and the Appellees' and the unusual and illegal un-involvement of DFS, the Constitutional rights and the rights under the Utah State child abuse reporting statutes afforded to Allen and all other citizens were intentionally abridged by the Appellees' and the GAL.

Allen, who was wrongfully accused of various acts of child abuse through said affidavits, the GAL's Memorandum and the Appellees' February 2006 letters which were attached to the affidavits, was never allowed to confront or cross-examine either of the Appellees or the GAL who were purportedly witnesses against her, which is the primary interest of U.S.C.A. Const. Amend 6.

The fact that the Divorce Court denied the GAL's motion, raises questions of relevancy to the divorce proceeding which the trial court should have explored. In it's wisdom, the Divorce Court could find no basis, merit or relevancy to the GAL's motion, the affidavits or the letters and the trial court should have found same. Pursuant to Utah's child

abuse reporting statutes, the Affidavits were in fact false reports of child abuse not entitled to immunity.

Allen implores this court to entertain the following question: In Allen v. Ortez, if the Social worker's letters that were sent to the Father's attorney were then subsequently used by the Father's attorney 30 day's later to mold an affidavit for the social worker based on said letters and then Father's attorney belatedly claimed he had investigated and substantiated said allegations by interviewing only the social worker and filed said affidavit, letter and report of said investigation into court and a hearing was held were the social worker did not appear, her affidavit was not admitted on the record and her testimony was not proffered, would this Court have then given absolute immunity to the social worker in all respects and find that Utah's child abuse reporting statutes were irrelevant? Exchanging social worker to Appellee's and father's attorney to GAL, this is precisely what has happened in this case except at least with regard to Allen v. Ortez, the accused were parties to the divorce proceeding and could defend themselves and face their accusers whereas the Appellant was not a party to the divorce proceeding, could not defend herself and could not face her accusers.

On their own initiative, the Appellees' pretended to be witnesses to acts of child abuse based upon information they fabricated and concocted to satisfy their own malicious motives and further directed said libelous communications to a participant or decision maker in litigation with impunity and without the threat of cross-examination, simply by violating Utah's child abuse reporting statutes and the Appellants' constitutional rights. This behavior shocks not only the conscience but the integrity of the judicial system. The underlying justification for the absolute privilege does not necessitate such license.

For these reasons and the reasons set forth in Allen's initial Brief, this court must, therefore reverse and remand.

D. THE APPELLEE'S LACK OF REPORTING

Interestingly the Appellees' assert the following three propositions for their lack of reporting to DFS: (1.) that the children were protected from potential abuse and neglect partially by the very acts of the reports to the GAL, (2.) that the lack of reporting to DFS did not negatively affect the children and (3.) that the statements, letters and affidavits provided to the Guardian ad litem in the divorce action provided the very protection needed.

Appellees' conclude said propositions with the assertion that it would be absurd to chill a citizen's inclination to describe a concern to the Guardian ad litem, solely because that citizen had not previously also reported that concern to another official designated to protect minors and this would have an adverse impact on child abuse reporting and contrary to sound policy.

Allen v. Ortez dealt specifically with these issues and found that the social worker reporting to attorneys and the commissioner were liable and violated Utah's child abuse reporting statutes.

First, the GAL took no action to protect the children for 41 day's after she received the first letter reporting child abuse. Utah's child abuse reporting statutes states that in order to protect children, reports *must be made immediately* to DFS and or law enforcement. Thus the children were not protected.

Secondly, the lack of reporting did not negatively affect the children only because the reports were false. If the reports had been true the children would have been negatively affected for 41 days.

Lastly, this Court must not conclude that the statements, letters and affidavits provided to the GAL, provided the children protection. This erroneous assertion lacks credulity. How are children protected by allegations that they are being subjected to child abuse that go unreported to law enforcement or DFS while GAL's take 41 day's to manufacture a ill-conceived case?

The law is well settled if a person has reason to believe children are being abused they must make a report to law enforcement or DFS immediately. Along with being a school teacher Appellee Ferrari is a self professed professional with experience in these matters , making her lack of reporting to DFS more egregious. Moreover, Ferrari's and Dimeo's fabricated allegations made as retribution against Rex Strand are outrageous, intolerable and shocks the conscience.

For these reasons, and the reasons set forth in Allen's initial Brief, this court must, therefore, reverse and remand.

E. SLANDER CLAIMS

As argued in her brief and through her complaint against Appellee Ferrari, Allen alleged that in December 2005 Ferrari made certain false and slanderous statements about her past to the minor child, Emily Strand [Ferrari Complaint R. 6-7/ 30, R. 8-9/ 38, R 9/39]. Likewise as argued in her brief and through her complaint Allen alleged that in March 2006 Appellee Dimeo also made certain false and slanderous statements about Allen in front

of no less than 11 witnesses [Dimeo Complaint R 7-28, R. 35-38, R 8/34(b)]. Specifically in these instances, Allen asserts that these out of court statements had no bearing or relevancy to the divorce proceeding. Furthermore the substance of Allen's slander claims in total cannot be construed to be related to any inquiry or investigation. The trial court clearly erred by not being familiar with the slander claims, and by concluding that the slander claims were entitled to judicial privilege.

Understanding the substance of the slander claims is important because they reflect that the trial court clearly erred in dismissing these claims without review and that Allen clearly established a cause of action. In their brief the Appellee's skirt these issues with irrelevant assertions. Because Allen has lived with Michael Strand for the past 14 years does not form a basis for this type of slander and harassment. It should be noted that the children's grandmother (Renee Strand's mother) has lived with her boyfriend for at least 10 years and he is married to another woman who lives in Mexico. Ferrari herself has cohabitated with no less than three men for various periods of time while fulfilling her contract in teaching minor children and presumably acting as a role model. Likewise after Appellee Dimeo and her husband divorced this past year, Dimeo has also cohabitated with a series of several male friends.

Both Appellees' in fact knowingly and recklessly with actual malice made false statements about Allen in 2005 and 2006. Said statements were inappropriate, known by the Appellee's to be false, completely unjustified and left un-addressed by the trial court.

Senate Bill 86 that the Appellees' refer to was not signed until March 14, 2007, rendering such bill irrelevant to these 2005 and 2006 statements and furthermore 76-9-404 still stands. The substance of Appellees' slander (criminal defamation) are not those

protected by the constitution. Free speech must be balance against the values protected by the law of defamation, invasion of privacy, and abuse of personal identity.

Additionally IML case cited by the Appellees' refer to written material not oral material. Likewise Cari Allen is not a public figure . The constitution does not protect speech that is admittedly false, intended to harm, aimed at private citizens, and otherwise defamatory. The statements of Appellees' were not made with good motives for justifiable ends and damaged Allen's reputation.

A court simply cannot determine whether a statement is capable of sustaining a defamatory meaning by viewing individual words in isolation; rather, it must carefully examine the context in which the statement was made, giving the words their most common and accepted meaning. Thus a court must consider an entire article to determine whether a reasonable reader could infer defamation. The statements of Appellees' were outrageous in character, and so extreme in degree as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community.

Here, the trail court concluded that the slanderous statements were not outrageous. It based its decision without reviewing the substance of the claims, to whom they were made and how Allen was affected , and relied simply on the mere fact that Allen lives with her boyfriend.

For these reasons, and the reasons set forth in Allen's initial Brief, this court must, therefore, reverse and remand.

CONCLUSION

The letters did not qualify for common-law absolute privilege as statements made in course of participation in judicial proceedings. As a matter of law, the Appellees' were not

acting as witnesses or potential witness in custody modification proceeding when they sent letters charging the Appellant's with child abuse to children's guardian ad litem, the fathers attorney, the mothers attorney and a number of other untold parties.

Respondents argue and the district court found that both their written and oral statements were made as witnesses in the divorce proceeding and that such statements were relevant to the parent time and custody of the minor children. This argument and holding is erroneous in fact and law.

The Appellees have construed the issue's on appeal in a manner which reads in a prejudicially unfair and un-neutral manner, completely overlooks and take's entirely out of context the nature and substance of Appellants' position and the reasons for her challenge to the District Court's ruling. Appellee's ill-conceived, biased and pre-disposed contentions should be rejected by this court so that fair and neutral position with regard to Appellant's challenges to witness status and relevancy in all respects can be determined by this Court.

APPELLEES' ARE NOT ENTITLED TO ATTORNEY'S FEES

The litigation was not initiated in bad faith or frivolously. Likewise, this appeal was made in good faith, is neither frivolous, vexatious nor meritless and presents to this court numerous issues which are important and need resolution and seeks the enforcement of well established law and the precedence set forth in Allen v. Ortez.

Appellees' counsel's conduct affected the ability of the finder of fact to comprehend the evidence, the claims submitted, and the ability of the finder of fact to perform its duties and has sought to do same with this Court.

RESPECTFULLY SUBMITTED this 7th day of May, 2007.


CARI ALLEN

CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of May, 2007, I ~~caused~~ ^{personally hand delivered} two true and correct copies of the foregoing REPY BRIEF ~~to be mailed, postage prepaid~~ to the following:

Mary C. Corporon
Allison Librett
Attorneys for Appellees/ Defendants
Corporon & Williams. P.C.
405 South Main Street, Suite 700
Salt Lake City, Utah 84111


CARI ALLEN

May 7th, 2007
DATED

ADDENDUM

Docket in case no. 054905268 ~~1-2~~ 1-3

Salt Lake Tribune Article..... 34

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

RENEE L STRAND vs. REX C STRAND

CASE NUMBER 054905268 Divorce/Annulment

CURRENT ASSIGNED JUDGE
TYRONE E MEDLEY

CURRENT ASSIGNED COMMISSIONER
T PATRICK CASEY

PARTIES

Petitioner - RENEE L STRAND
Represented by: FREDERICK N GREEN

Respondent - REX C STRAND
Represented by: WENDY J LEMS

ACCOUNT SUMMARY

TOTAL REVENUE	Amount Due:	195.00
	Amount Paid:	195.00
	Credit:	0.00
	Balance:	0.00

REVENUE DETAIL - TYPE: DIVORCE PETN

	Amount Due:	95.00
	Amount Paid:	95.00
	Amount Credit:	0.00
	Balance:	0.00

REVENUE DETAIL - TYPE: VITAL STATISTICS FEE

	Amount Due:	2.00
	Amount Paid:	2.00
	Amount Credit:	0.00
	Balance:	0.00

REVENUE DETAIL - TYPE: COPY FEE

	Amount Due:	17.50
	Amount Paid:	17.50
	Amount Credit:	0.00
	Balance:	0.00

REVENUE DETAIL - TYPE: AUDIO TAPE COPY

	Amount Due:	10.00
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be reserved for future hearing;

13. The telephone call stipulation will be binding only until the next hearing if it is not resolved on Thursday in the restraining order motion;

Mr. Green is to prepare and submit the appropriate order.

03-29-06 Filed: Supplemental Affidavit in Support of Guardian Ad Litem's Motion for Temporary Restraining Order

03-29-06 Filed: Affidavit of Gina Painter

03-30-06 Filed: STRICKEN *Affidavit of Michael Strand and Cari Allen Dated March 27, 2006

03-30-06 Filed: Affidavit of Rex Charles Strand in Response to Respondent's Affidavit Dated March 27, 2006

03-30-06 Filed: ***UNSIGNED*** GAL Temporary Restraining Order- Denied.

03-30-06 Minute Entry - Minutes for SIGNING OF TRO

Judge: TYRONE E MEDLEY

Clerk: tinaa

PRESENT

Petitioner's Attorney: FREDERICK N GREEN

Attorney for the minor: DIANA L TELFER

Attorney for the Respondent: GRANT W. P. MORRISON

Video

Tape Number: 9.25

HEARING

This matter is before the Court for a hearing on the signing of a Temporary Restraining Order. Appearances as stated above.

X Temporary Restraining Order is denied.

The Court does not preclude the Guardian ad Litem or Mr. Green to pursue these issues in front of Commissioner.

Issues of attorneys fees are reserved.

Respondent is refrained from having any contact with the Guardian Ad Litem. Contact will be made through counsel only.

Conversation between the GAL and minor children to remain confidential and only the guardian will be allowed to talk with the children about Court proceedings.

X Affidavit of Michael Strand and Cari Allen Dated 3/27/06 is hereby stricken.

Grant Morrison to prepare Order and submit Order with in 1 week.

03-31-06 Fee Account created Total Due: 15.00

03-31-06 VIDEO TAPE COPY Payment Received: 15.00

04-07-06 Filed: Partial Transcript, ruling only, hearing dated 3-30-06, Carolyn Erickson, CCT

04-12-06 Note: Order (hrg 3/28/06) signed by Comm Casey forwarded to

Judge for signature

04-14-06 Filed order: Order

Judge tmedley

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Signed April 14, 2006

04-17-06 Filed: Notice of Lodging
04-28-06 Filed: Notice of Hearing on Respondent's Motion for Orders and
for Contempt Certification (6/6/2006 @9:00 AM), ATR
04-28-06 Filed: Motion for Order and for Contempt Certification, ATR
04-28-06 Filed: Affidavit in Support of Motion for Temporary Orders, ATR
05-03-06 LAW AND MOTION scheduled on June 06, 2006 at 09:00 AM in Third
Floor W-36 with Commissioner CASEY.
05-11-06 Filed order: Order
Judge tmedley
Signed May 11, 2006
05-12-06 Judgment #1 Entered
Creditor: RENEE L STRAND
Debtor: REX C STRAND
1,800.00 Child Support Arrearage to Mother
1,800.00 Judgment Grand Total
05-12-06 Filed judgment: Order (hrg 3/28/06) @J
Judge tmedley
Signed May 11, 2006
05-17-06 Filed return: Subpoena Duces Tecum on Return
Party Served: Qwest Communications
Service Type: Personal
Service Date: May 11, 2006
05-19-06 LAW AND MOTION rescheduled on June 23, 2006 at 09:00 AM
Reason: Conflict in attorney schedule.
05-23-06 Filed: Stipulation
05-24-06 Filed: Notice of Rescheduled Hearing (6/23/2006 @ 9:00 AM),
Mandy L. Rose, GAL
05-24-06 Filed: Certificate of Service
05-24-06 Filed order: Order
Judge tmedley
Signed May 24, 2006
05-25-06 Filed: Notice of Substitution of Counsel, Mandy L. Rose, GAL
05-30-06 Filed: Guardian Ad Litem's Motion to Quash Subpoena of
Investigator's Records, Mandy L. Rose, GAL
05-30-06 Filed: Memorandum in Support of Guardian Ad Litem's Motion to
Quash Subpoena of Investigator's Records, Mandy L. Rose, GAL
06-15-06 Filed: Guardian ad Litem's Motion to Modify Order Regarding
First Right of Refusal (Mandy L. Rose, GAL)
06-16-06 Filed: Notice of Hearing (6/23/2006 @ 9:00 AM), ATP
06-16-06 Filed: Petitioner's Motion Regarding: 1)Parenting Issues;
2)Medical Bill Jugement; 3)Possession of Automobile;
4)Automatic Deposit of Child Support; and 5)Compelling
Respondent's Cooperation With the Custody Evaluation, ATP
06-16-06 Filed: Affidavit of Renee L. Strand Date June 16, 2006, ATP
06-19-06 Filed: Notice of Hearing on GAL's Motion (6/23/06 @ 9:00 AM)

Printed: 05/07/07 15:49:51

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CASE NUMBER 054905268 Divorce/Annulment

06-22-06 Filed: Objection to Late Filed Motion of Petitioner and Motion
to Strike Hearing, ATR
06-22-06 Filed: Objection to Late Filed Motion of Guardain Ad Litem and
Motion to Strike Hearing, ATR

Former Duchesne County attorney pleads 'no contest' for failing to report child abuse

By Stephen Hunt
The Salt Lake Tribune
Salt Lake Tribune

Article Last Updated:02/22/2007 06:39:51 AM MST

Posted: 6:41 AM- The case against a former deputy Duchesne County attorney charged with failing to report information about the sexual abuse of a child has been resolved with a plea in abeyance.

Roland Uresk pleaded "no contest" this week in Salt Lake County Justice Court to one count of class B misdemeanor failure to report child abuse.

Judge Shauna Graves-Robertson imposed a \$200 fee and said the charge, along with an identical count, will be dismissed in 12 months if Uresk commits no other crimes.

In September 2005 and May 2006, Uresk received information over the telephone that Brad Gale - part-owner of Gale's Office Supply & Books in Roosevelt and Vernal - was molesting a 14-year-old boy.

Although the caller mentioned Gale by name, Uresk told The Tribune he took no action because the caller had heard of the abuse from someone else.

Uresk said he advised the caller to have that other person contact him, or for the caller to contact the Utah Division of Child and Family Services.

Prosecutors said that other person finally did contact police.

Utah law requires citizens to report suspected child abuse to the division or police. The case was filed in Salt Lake County because the person who called Uresk made the call from Salt Lake County, said Assistant Utah General Michael Wims.

Gale was subsequently charged with sexually abusing the boy in Duchesne and Utah counties, in July and September, respectively.

Earlier this month, Gale was sentenced to 15 years in federal prison for photographing the boy engaging in sexual acts.

Gale is to be sentenced March 29 in Roosevelt's 8th District Court, where he has pleaded guilty to four first-degree felonies.

Another man, 76-year-old John West, pleaded guilty to a misdemeanor count of sexual battery for watching Gale sexually abuse the boy in Utah County. West was sentenced to two weeks in jail.

On Wednesday, Wims called the settlement of Uresk's case "a fair and just resolution of the matter."

Uresk was a part-time civil attorney for Duchesne County until December, when his contract expired and the county commission declined to renew it.

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