



Judge tosses out James Huntsman's tithing lawsuit against LDS Church, but an appeal looms

He rules that no reasonable jury would believe Latter-day Saint leaders lied about how donations were spent.



James Huntsman



WHO ACCUSED TOP LEADERS OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS OF LYING

about how they spent members' tithing donations.

Huntsman, a California resident and a brother of former Utah Gov. Jon Huntsman Jr., sought millions of dollars back from the church, which he alleged misrepresented how his tithing funds were used.

Devout Latter-day Saints pay a tenth of their annual income in [tithing](#).

Church spokesperson Eric Hawkins said Tuesday in a statement that the church is "grateful" the judge granted its motion for summary judgment.

Huntsman declined to comment, steering questions to his attorneys.

"We're obviously disappointed in Judge [Stephen V.] Wilson's order," one of those lawyers, David Jonelis, said Tuesday. "We look forward to vindicating Mr. Huntsman's position in the [9th Circuit Court of Appeals](#)."

Huntsman, the owner of the Los Angeles film distributing company Blue Fox Entertainment and son of the late [Utah industrialist-philanthropist Jon Huntsman Sr.](#), was seeking to recover at least \$5 million in his own tithing, interest and penalties. He resigned his church membership in 2020.

While leaders told members otherwise, Huntsman alleged that they diverted up to \$2 billion in tithing funds to two of its private businesses, including City Creek Center, an upscale mall in downtown Salt Lake City, and Beneficial Life Insurance Co.

Wilson struck down Huntsman's claims Tuesday. He wrote that no reasonable jury



In 2003, Hinckley spoke directly to Latter-day Saints who might have been uncomfortable with the faith using their donations to build a shopping center and repeatedly assured them that “tithing funds have not and will not be used” to acquire and develop this property.

He said the money instead would come from church-owned “commercial entities” and “earnings of invested reserve funds.”

Even so, those “earnings” for the \$1.5 billion mall in the heart of downtown did come from the interest on tithing.

In his lawsuit, Huntsman argued that was a “distinction without a difference,” alleging that Hinckley and the church misled the faithful about money for the mall.

Huntsman’s case was clearly built on allegations made by whistleblower David Nielsen, a former portfolio manager at Ensign Peak Advisors, the church’s Salt Lake City-based investment arm.

In December 2019, Nielsen filed papers with the IRS accusing church officials of amassing a \$100 billion reserve fund intended for — but never spent on — charity in potential violation of tax laws. He said the Utah-based faith secretly funneled up to \$2 billion in tithing toward City Creek Center and Beneficial Life, while publicly assuring church members otherwise.



In a [subsequent sworn statement](#) filed in support of Huntsman's lawsuit, Nielsen asserted that tithing and earnings from it were commingled at Ensign Peak, while top leaders over the fund referred to "every penny" as tithing — allegations echoed by Huntsman.

Church leaders have called the Ensign Peak account a "rainy day" fund to help pay for, among other things, operations in poorer parts of the world — such as [Africa, where the faith is booming](#) — and where member donations can't keep up.

The have [said the money is less about stashing cash for the Second Coming](#), as was initially [widely reported](#), and more about providing safeguards against more earthly events — like credit crunches, stock slides and recessions.

In his ruling, Wilson wrote that Huntsman's lawsuit "does not properly consider the full statement made by Hinckley." The judge said Hinckley told members that day that returns from invested tithing funds would be used.

While Huntsman's lawsuit argued there is no distinction between tithing funds and the money made by investing those donations, and while Ensign Peak employees may have referred to all funds as tithing, Wilson writes that Hinckley himself made that distinction in his statement that "forms the basis for the fraud claim."

"And no reasonable juror," the judge wrote, "could ignore the distinction within his statement."

Wilson did not, however, hand the church a total victory. He rejected its lawyers' assertions that the First Amendment barred Huntsman from filing his lawsuit at all,



Wilson's view is found in a similar lawsuit, in Utah, involving accusations of fraud in a tithing lawsuit.

Judge Robert Shelby of Utah's U.S. District Court rejected a series of motions by church attorneys to entirely dismiss the case brought by former Latter-day Saint Laura Gaddy.

The North Carolina woman's assertions, according to Shelby, are not barred by the First Amendment in that she is not arguing against "the religious principles of the church or the truth of the church's beliefs concerning the doctrine of tithing." Rather, the judge ruled, she has "challenged secular representations concerning the use of money received by the church."

In his statement Tuesday, Hawkins, the church spokesperson, said, "We are further grateful that the court agreed that the statements made by President Gordon B. Hinckley and other Church leaders are accurate as to the source of funding for the City Creek project."

Editor's note • *James Huntsman is a brother of Paul Huntsman, chairman of the nonprofit Salt Lake Tribune's board of directors.*

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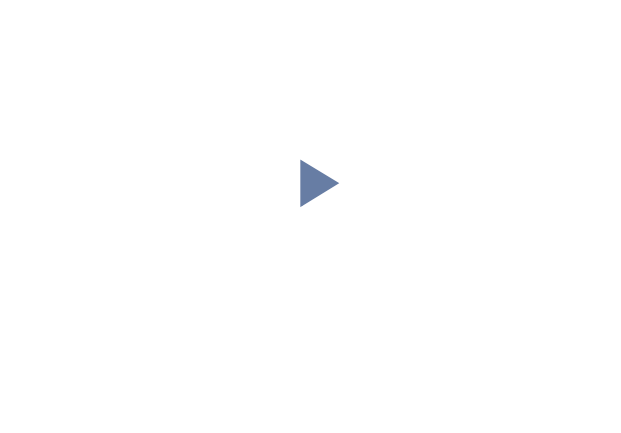


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