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Appeals court reinstates Huntsman's lawsuit against LDS Church



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SALT LAKE CITY — A federal appeals court has reinstated part of James Huntsman's high-profile lawsuit against The Church of Jesus Christ of Latter-day Saints.

In a ruling handed down Monday, the 9th U.S. Circuit Court of Appeals sided with Huntsman on part of his appeal in his fraud lawsuit. In that litigation, Huntsman accused the faith of misspending tithing dollars he and others had given them. [The Church has vehemently denied wrongdoing.](#)

"We reverse the judgment of the district court with respect to Huntsman's fraud claim based on the Church's representations as to the use of funds to finance the City Creek Mall project," Judge William Fletcher wrote. "We affirm the judgment of the district court with respect to Huntsman's fraud claim as to the use of funds to bail out the Beneficial Life Insurance Company. We reverse and remand for further proceedings consistent with this opinion."

What it means is Huntsman, a brother of former Utah Governor and U.S. Ambassador Jon Huntsman Jr. and a member of the wealthy Utah family, will get another chance to take his case against the Church to court. Huntsman sued [alleging the Church of using spending tithing dollars to finance the City Creek Center mall project in downtown Salt Lake City and prop up Beneficial Life Insurance](#) instead of on charitable purposes, contrary to what the faith insisted. Huntsman resigned from the Church in 2020 and has claimed if he wins his lawsuit, he would donate the financial proceeds to charities "supporting LGBTQ, African-American, and women's rights."

[A lower court judge in California dismissed the lawsuit.](#) [Huntsman appealed to the 9th Circuit Court.](#) A divided panel of the 9th Circuit Court reinstated it. In the ruling, Judge Fletcher said "a reasonable juror could rely on the following evidence to conclude that the Church fraudulently misrepresented that neither tithing principal nor earnings on tithing principal would be or were being used to develop the City Creek Mall project: (1) the four unqualified statements by church officials and in church publications that tithing funds were not used to finance the City Creek Mall project; (2) the statement by President Hinckley, in

which he denied that 'tithing funds' would be used to develop the City Creek Mall project and in which he failed to tell his listeners that, as he was using the terms, 'reserve funds' were 'tithing funds'; (3) common usage in the Church under which the term 'tithing funds' includes both tithing principal and earnings on tithing principal; and (4) [Ensign Peak President Roger] Clarke's statement that money was transferred from Ensign Peak to Property Reserve in order to conceal the source of the funds used to develop the City Creek Mall project."

In a dissent, Judge Edward Korman took issue with representations about then-President Hinckley's comments on tithing.

"Hinckley's earlier statements show that the Church would set aside tithing funds as reserves. This, in addition to the financial records, makes clear that Hinckley's 2003 statement was truthful and not a misrepresentation. Combined with Huntsman's sophistication and knowledge of the Church, there is also no question that Hinckley would have expected Huntsman to understand his statement, which entirely undermines any claim that Hinckley made a knowingly false representation," he wrote. "Again, this is not a question of what Huntsman understood, but of what Hinckley intended. Thus, no reasonable juror could conclude that the Church fraudulently misrepresented the source of the money used to finance the City Creek Mall project."

When contacted by FOX 13 News late Monday, The Church of Jesus Christ of Latter-day Saints insisted again no wrongdoing.

"The Court of Appeals decision returns part of this case to the trial court for further handling. As we have previously stated, there was no fraud," a Church spokesman said in a statement. "The Church did exactly what President Gordon B. Hinckley said when it invested earnings on reserve funds in the City Creek project. The Church looks forward to defending these facts in the next phase of the legal process."

[Huntsman told The Salt Lake Tribune on Monday that he was "very grateful that the court has granted my appeal"](#) and called it "an amazing victory, especially when you think a year and a half ago we were thrown out of court." (Huntsman is the brother of Paul Huntsman, the publisher of the *Tribune*. FOX 13 News and *The Salt Lake Tribune* also have a news-sharing partnership.)

Read the Court's ruling here:



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