

Form 21. Motion for Summary Judgment

[Caption and signature block as in Form 1]

Pursuant to Rule 56 of the Utah Rules of Civil Procedure, defendant moves the court for summary judgment on all claims in the complaint. The grounds for this motion are that there exists no issue of disputed material fact and that defendant is entitled to judgment as a matter of law. In further support of this motion, defendant submits:

1. The complaint's first cause of action is barred by Utah Code Ann. § 70A-2-201 (1997), in that the agreement alleged in that cause of action is unsupported by a written memorandum within the meaning of the statute of frauds.

2. Plaintiff is not entitled to relief under the second cause of action because there exist no facts to support the claim of tortious conversion; the undisputed facts demonstrate that the delivery of the goods was a gift given freely and therefore no payment was due as a matter of law.

This motion is supported by an accompanying memorandum of points and authorities.