

**UNITED STATES COURT OF APPEALS**  
**TENTH CIRCUIT**

**August 4, 2006**

**Elisabeth A. Shumaker**  
**Clerk of Court**

ROBERT J. DEBRY AND  
ASSOCIATES, P.C., a Utah  
corporation,

Plaintiff-Appellant,

v.

QWEST DEX, INC., a Colorado  
corporation; and DEX MEDIA WEST,  
LLC, a Delaware limited liability  
corporation,

Defendants-Appellees.

No. 04-4049

(D.C. No. 1:03-CV-99-PGC)  
(D. Utah)

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**ORDER AND JUDGMENT\***

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Before **HENRY, BALDOCK**, and **BRISCOE**, Circuit Judges.

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We certified to the Utah Supreme Court, as a dispositive question of law in this matter, the following pursuant to 10th Cir. R. 27.1 and Utah R. App. P. 41:

Whether Defendants violated Utah Code Ann. § 13-11a-3(1)(b), (d), or (t) when they published in their 2003–2004 Ogden-area telephone directory a table of numerical prefixes associated with a “local calling area” and advertisements by third parties that include a market expansion line telephone number without any physical business address; and if so, whether Defendants are exempt from liability under Utah

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\* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

Code Ann. § 13-11a-5(1).

See Robert J. DeBry and Assocs. P.C. v. Qwest Dex, Inc., No. 04-4049, Certification Order (10th Cir. March 21, 2005). The Utah Supreme Court graciously accepted our certification and held, under the facts as certified, that Defendant had not violated Utah Code Ann. § 13-11a-3(1)(b), (d), or (t). See Robert J. DeBry and Assocs. P.C. v. Qwest Dex, Inc., \_\_\_ P.3d \_\_\_, 2006 WL 2089138 (Utah 2006). Accordingly, the district court's judgment dismissing Plaintiff's complaint for failure to state a cause of action is—

AFFIRMED.

Entered for the Court

Bobby R. Baldock  
United States Circuit Judge