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IN THE SUPREME COURT OF IOWA
NO. 20-1290

Polk County District Court Case No CVCV054470

NATIONWIDE MUTUAL INSURANCE COMPANY,
PLAINTIFF-APPELLANT,

v.

POLK COUNTY BOARD OF REVIEW,
DEFENDANT-APPELLEE.

APPELLANT'S RESISTANCE TO DEFENDANT-APPELLEE POLK COUNTY BOARD OF REVIEW'S APPLICATION FOR FURTHER REVIEW OF IOWA COURT OF APPEALS DECISION FILED FEBRUARY 16, 2022

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QUESTIONS PRESENTED FOR FURTHER REVIEW

1. Whether the Court of Appeals erred, warranting further review, in finding that the Polk County Board of Review failed to provide competent evidence of the value of 1100 Locust Street and 1200 Locust Street?

2. Whether the Court of Appeals erred, warranting further review, in finding that the Polk County Board of Review failed to present competent evidence that the values of 1100 Locust and 1200 Locust could not be readily established though the preferred market analysis?

3. Whether the Court of Appeals erred, warranting further review, in finding on *de novo* review that the evidence presented at trial by the Polk County Board of Review was not competent and did not meet the burden under Iowa Code § 442.21(3)(b) to uphold the assessment?

STATEMENT IN RESISTANCE TO FURTHER REVIEW

This case presents the proper interpretation and application of the Supreme Court's decision in *Wellmark, Inc. v. Polk County Board of Review*, 875 N.W.2d 667 (Iowa 2016) in determining the value of a large single tenant corporate headquarters for property tax purposes. *Wellmark* reinforced that under Iowa law, the value of real property was to be determined based upon the "fair and reasonable *market value* of such property" (*Id.* at 678-79) and that comparable sales are the best measure of determining market value. *Id.* at 681-82. It is only when value cannot be readily established by market data that the court can look beyond comparable sales to other valuation methods. *Id*. at 682.

Applying *Wellmark* and *Bartlett & Co. Grain v. Bd. of Rev.*, 253 N.W.2d 86 (Iowa 1977), the Court of Appeals found the experts retained by the Polk County Board of Review (the "Board") did not follow the statutory scheme for the valuation of property, and did not carry the burden to show the value could not be established by the sales approach before looking to "other factors." Instead, one of the Board's experts only looked at large single tenant properties in major metropolitan markets unlike Des Moines in his comparable sales analysis, while the other relied almost exclusively on multi-tenant properties. In *Wellmark*, the Supreme Court explicitly stated

those types of sales were not comparable properties to large single tenant buildings in Des Moines under Iowa law. In contrast, the experts retained by Nationwide Mutual Insurance Company ("Nationwide") used comparable sales of large single tenant properties in Des Moines and the Midwest in determining an appropriate valuation.

None of the Court's discretionary considerations set forth in Iowa Rule of Civil Proc. § 6.1103(1)(b) counsel in favor of granting further review of the well-reasoned decision of the Court of Appeals. The Board relies on § 6.1103(1)(b)(4) claiming "the competency of appraisers as expert witnesses in property tax assessment appeals is a matter of great public importance" and that if the case is allowed to stand "it may result in significant reductions in the valuation of all commercial properties in the State of Iowa…." That is a misinterpretation of the Court of Appeals' decision.

The Court of Appeals found on *de novo* review that once Nationwide presented competent evidence of value and the burden shifted to the Board, the Board's experts did not carry their burden to show the value could not be established by the sales comparision approach (Court of Appeals decision at p. 12). In other words, despite the clear language of *Wellmark* and *Bartlett & Co. Grain* requiring a showing that value could not be established through

market analysis before using other methods of valuation, the Board's experts simply failed to meet that burden. In fact the Board admitted at trial and before the Court of Appeals that they did not even try.

As a result, the decision of the Court of Appeals does not present an issue of "broad public importance" that will impact any other cases going forward. All the Court of Appeals did was apply the holdings in *Wellmark* and *Bartlett & Co. Grain* and found the Board did not carry its burden that the value could not be established by the comparable sales approach. There was nothing stopping the Board's experts from using the sales of large single tenant buildings in Des Moines and the Midwest to perform a comparable sales analysis acceptable under Iowa law. The fact the Board's experts failed to do so in this particular case has no far reaching consequences that would trigger further review by this Court.

STATEMENT OF THE CASE

Nature of the Case

On July 12, 2017, Nationwide filed its Petition for Judicial Review of the Board's decision to reject its protest of the valuations assigned to Nationwide's office buildings located at 1100 and 1200 Locust. The matter was tried February 18th through the 20th, 2020. Final post trial briefs were submitted on May 4, 2020, and on September 22, 2020, the District Court

issued its Findings of Fact, Conclusions of Law, and Order upholding and affirming the Board's assessment of $87,050,000 for 1100 Locust and $44,910,000 for 1200 Locust. Nationwide appealed and on February 16, 2022, the Court of Appeals reversed the District Court and set the value of the properties at $78,500,000 for 1100 Locust and $36,000,000.

Factual Background

The fighting issue in this case is whether the Board's experts met their burden to show the value of the properties could not be established by the sales comparision approach, which would allow the Court to consider "other methods" pursuant to Iowa Code § 441.21(1) as interpreted by this Court in *Wellmark, Inc. v. Polk County Board of Review*, 875 N.W.2d 667 (Iowa 2016) and *Bartlett & Co. Grain v. Bd. of Rev.*, 253 N.W.2d 86 (Iowa 1977). A summary of all four appraisals and how they approached the sales comparison method is below.

Nationwide Expert Don Vaske

Don Vaske is a Des Moines based appraiser with 26 years' experience valuing commercial property. To appraise the two buildings, Vaske relied on the definition of market value set forth in Iowa Code §441.21.

> The actual value of all property subject to assessment and taxation shall be the fair and reasonable market value of such property except as otherwise provided in this section. "Market value" is defined as the fair and reasonable exchange in the year

> in which the property is listed and valued between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and each being familiar with all the facts relating to the particular property. Sale prices of the property or comparable property in normal transactions reflecting market value, and the probable availability or unavailability of persons interested in purchasing the property, shall be taken into consideration in arriving at its market value….

(Ex. 9 p. 2, Vaske Appraisal of 1100 Locust, App. 0540[1]). To arrive at an appraised value, Vaske's analysis included the development of the Cost Approach, the Sales Comparison Approach, and the Income Approach.

Under the Sales Comparison Approach, Vaske relied on sales of large corporate home offices in Des Moines and in Midwest. His adjustments were reasonable and Vaske testified this approach deserves the most weight. There is nothing unique about these buildings, and if they were put up for sale they would be marketed nationally and may take time to sell. But the price a national buyer would pay will be based on the Des Moines market, not on what the building would sell for on the east or west coast. (Trans. Vol. II pp. 63-64, App. 0170-0171).

In sum, Vaske opined that the fair market value of the 1100 Locust property is $49,000,000, and the fair market value of the 1200 Locust

[1] All references herein to the "App" are to the Appendix filed with the Court of Appeals.

property is $26,000,000. Below is a chart summarizing the two appraisals and the three approaches Vaske used to reach his determination of value.

	1100 Locust	**1200 Locust**
Cost Approach	**$54,385,000**	**$26,650,000**
Sales Comps	**$48,237,000**	**$26,034,000**
Income	**$48,117,000**	**$25,134,000**
Reconciliation	**$49,000,000**	**$26,000,000**

Nationwide Expert Tom Scaletty

Nationwide's other appraiser was Tom Scaletty, a Kansas City appraiser with 23 years' experience valuing commercial property. To appraise the two buildings, Scaletty relied on the definition of market value contained in Iowa Code § 441.21 and appraised the property as a fee simple estate. (Ex. 7 p. 7, Scaletty Appraisal of 1100 Locust, App. 0240). Since he was appraising a fee simple, Scaletty testified:

> "I looked for sales of ideal single-tenant buildings that were being sold for use as office. **I excluded – attempted to exclude buildings that were leased at the time, because buildings that are built to suit or sale leased-back property are not indicative of the fee simple interest, which is what we're charged with estimating here**. Those sales of leased buildings equate value to the lease or the income stream that's guaranteed by that lease."

(Trans. Vol. I pp. 85-86, App. 0146-0147). In his analysis, Scaletty specifically avoided looking at sales comparisons that were sale-leaseback transactions or second generation leased fees, since a significant portion of the sale price was reflective of the lease, and not the fee simple estate itself. (Trans. Vol. I pp. 87-88, App. 0148-0149).

Scaletty testified he assigned no weight to the Cost Approach. It's an *indication* of value, but he has "never talked with any investor or developer that has ever used the cost approach to estimate what they should pay for something." (Trans. Vol. I p. 99, App. 0150). He gave less weight to the Income Approach because "there's a lot of pitfalls going on with a property like this. It's so large, that finding a single tenant to occupy it is very problematic, and so it requires a different type of analysis." (Trans. Vol. I pp. 99-100, App. 0150-0151). Scaletty testified he "relied significantly on the sales comparison approach, **because it specifically focuses on single tenant buildings that were sold for continued single office use**." (Trans. Vol. I p. 99, App. 0150). Like Vaske, Scaletty focused on true comparable sales of large corporate home offices in Des Moines and in the region.

Below is a chart summarizing the two appraisals and the three approaches Scaletty used to reach his determination of value.

	1100 Locust	**1200 Locust**
Cost Approach	**$39,470,000**	**$23,440,000**
Sales Comps	**$39,390,000**	**$22,640,000**
Income	**$39,550,000**	**$24,240,000**
Reconciliation	**$39,450,000**	**$23,280,000**

Board Expert Mark Kenney

Mark Kenney is an appraiser based in Philadelphia. Although he indicated in his report he was appraising the "fee simple interest" in the subject properties, at trial he testified that many of the comparable sales he used in his analysis were not "fee simple" sales but instead involved sales encumbered by leases or other interest. (Ex. A p. 46, Kenney Appraisal, App. 0787).

Under this approach Kenney identified various corporate headquarters located throughout the United States and used them as "comparable sales" for his analysis. However, those sales were not truly comparable and of little use in determining fair market value. Kenny testified that Des Moines is the 88th largest metropolitan area in the United States, but he did not limit his search for comparable properties in nearby or similarly sized cities.

Instead, he looked at properties in the largest metropolitan areas in the country and ignored any single occupant sales in Des Moines or Iowa. (Vol. III p. 41, App. 0185). Those sales Kenney did use have little in common with the subject property given their size, location, and the terms of the sales involved.

Based on these comparable sales, Kenney determined the value of the properties under the Sales Comparison Approach was $107,000,000 for 1100 Locust, and $63,000,000 for 1200 Locust. However, all of Kenney's comparable sales are in much large metropolitan areas that are not indicative of the smaller Des Moines market. Further, most of his comparable sales involved properties subject to a long term lease, which clouds comparability and raises the question of whether the buyer was interested in the property, or the income stream generated by an advantageous lease. Either way, Kenney's comparable sales are not helpful in determining the fair market value of the subject properties.

Kenney testified he gave the most weight to the Cost Approach, "because of the type of property it is and the fact that I had to go nationwide on both of the other approaches…" (Vol. III p. 26, App. 0184). He gave less weight to the Income Approach, and "very little weight" to the Sales

Comparison Approach. Below is a chart summarizing the appraisals and the three approaches Kenney used to reach his determination of value.

	1100 Locust	**1200 Locust**
Cost Approach	**$99,000,000**	**$41,000,000**
Sales Comps	**$107,000,000**	**$63,000,000**
Income	**$80,000,000**	**$55,000,000**
Reconciliation	**$94,000,000**	**$47,000,000**

Board Expert Russ Manternach

Russ Manternach is an appraiser based in Des Moines. Like Vaske and Scaletty, Manternach relied on the definition of market value contained in Iowa Code § 441.21. (Ex. B p. 5, Manternach 1100 Locust Appraisal, App. 1169). Unlike the other three appraisers, Manternach treated the two Nationwide properties as multi-tenant buildings when performing his Sales Approach and Income Approach, and did not appear to differentiate between multi-tenant and single tenant properties.

Out of all the appraisers who testified, Manternach was the only one who made no attempt to identify single tenant buildings as comparable sales. At trial, he testified the four comparable sales he found were the "most

comparable to the subject property", even though he considered all of them to be multi-tenant. (Vol. IV pp. 154-55, App. 0212-0213). However, since the Nationwide buildings in question are large single-occupant properties, any comparisons to multi-tenant buildings are not truly comparable. Further, three of the four comparable properties selected are leased fees, which are poor comparisons for a fee simple estate. Below is a chart summarizing the appraisals and the three approaches Manternach used to reach his determination of value.

	1100 Locust	**1200 Locust**
Cost Approach	**$89,300,000**	**$44,000,000**
Sales Comps	**$81,300,000**	**$42,800,000**
Income	**$82,100,000**	**$42,900,000**
Reconciliation	**$82,100,000**	**$43,000,000**

Given the clear deficiencies in Manternach's comparable sales opinion and appraisal, Nationwide agrees with the statement in the Board's brief to the Court of Appeals that Manternach's sales approach is "not credible and persuasive evidence of market value and should not be given **any weight** by the court based on Wellmark." (See Appellee's Brief at pp.

21, 27-28). Given this admission by the Board that Manternach's sales comparison approach should be given no weight at all, and Kenney's admission he gave very little weight to the approach in his analysis, Nationwide cannot comprehend how the Board can now argue the Court of Appeals erred in its decision that the Board failed to carry its burden that the value could <u>not</u> be established by the comparable sales approach .

ARGUMENT

I. <u>Kenney and Manternach Failed to Provide Competent Evidence of the Value of 1100 Locust Street and 1200 Locust Street</u>

All the Board's discussion regarding the competency of expert witnesses ignores the actual decision reached by the Court of Appeals and the application of this Court's holding in *Wellmark.* As stated in Wellmark, if market analysis can provide a reliable estimation of value, the process is at an end. <u>**"Other factors" may be considered *if, and only if,* market value cannot be readily established through the preferred market analysis.**</u>" *Wellmark, Inc. v. Polk County Board of Review*, 875 N.W.2d 667, 679 (Iowa 2016.)

In the *Wellmark* case, the experts retained by the taxpayer and the Board both used the sales comparison approach to determine value, but there was a problem regarding what comparable sales the experts utilized to arrive at a valuation. As this Court explained:

> "Wellmark's experts utilized transactions from similar geographic markets**, but the transactions involved office buildings dedicated to multitenant use.** Further, Wellmark's experts were required to make substantial adjustments with respect to comparable sales in order to support their analysis.
>
> On the other hand, the Board's expert **… presented single-occupant sales of large office buildings in large metropolitan areas that are simply not very indicative of the value of property in the much smaller Des Moines market**. **Further, some of his comparable sales involved property subject to a long-term lease, thus clouding comparability and raising the question of whether the buyer was interested in the property or the income stream generated by an advantageous lease.** We therefore conclude that the district court correctly considered other factors in its effort to establish the value of the properties."

Wellmark at 682 (emphasis added).

Given the fact none of the appraisers from either side was able to establish market value through competent comparable sales, the Court in *Wellmark* could look at other factors to determine value. But the *Wellmark* Court was **only** able to consider "other factors" because it found market value could not be established using comparable sales. *Wellmark* at 682. If a competent comparable sales analysis can be performed, this Court cannot consider other methods of valuation, including the cost approach urged by the Board.

In this case, the Court of Appeals did a *de novo* review of the evidence and agreed with Nationwide that the Board had failed to meet its burden that comparable sales could not be used to set value:

> "[A] party relying on the other factors approach has the burden of persuading the fact finder that exchange value cannot be readily established by the sales price approach. (citations omitted)
>
> * * *
>
> While the district court noted, "the statute provides for alternative means of determining market value which should not be used unless the market value cannot be readily established using the Sales Comparison Approach," **the court did not address whether the fair market value of the property could be readily established by looking at comparable sales**.

Court of Appeals at p. 11. The Court of Appeals then found on its *de novo* review of the record that the Board did not carry its burden regarding the sales comparison approach, and the assessed value could not be upheld.

But in its application, however, the Board never mentions, much less discusses, the reason for the Court of Appeals' decision. Instead, it focuses on the Court's finding that the Board did not present "competent evidence", and goes off on a tangent arguing that in a property tax case, an appellate court cannot question the competence of an expert witness, but must instead

consider all experts competent so long as they meet certain minimum steps and leave the rest to credibility. Of course, that is not the law, and the cases cited by the Board in support of its argument are easily distinguishable.

For example, in *Soifer v. Floyd County Bd. of Review*, 759 N.W.2d 775 (Iowa 2009) the local Board of Review was assessing a McDonald's restaurant and insisted that only other fast-food franchise restaurants could be used as comparable sales. The Court disagreed and found that comparable sales of other properties used for restaurant purposes, but not for fast food, was allowed and deemed competent. *Id.* at 782-83.

Unlike the facts in *Soifer*, in this case the comparable sales used by the Board's experts were not substantially similar to the properties at 1100 and 1200 Locust. Instead, the Board's experts admit the properties they used in their sales analysis were not comparable to the subject properties and gave them little or no weight in reaching a final valuation. As a result, the Board's experts did not have competent evidence regarding comparable sales, and *Soifer* does not support the Board's argument.

The Board's reliance on *Ruan Center Corp v. Bd. of Review of City of Des Moines*, 297 N.W.2d 538 (Iowa 1980) is similarly misplaced. In that case, the Court specifically noted that "where, as in this case, the sales price approach does not readily establish a market value because there have been

no comparable sales, the assessor must use the "other factors" approach. *Id.* at 540. In other words, everyone agreed in *Ruan* that the sales approach would not work, so no one used it. Instead, the issue in *Ruan* was whether the experts' use of both the cost and income methods to arrive at a value was enough to be considered "competent" evidence, and the Court agreed that it was. In this case, Nationwide presented competent evidence of value based on comparable sales, and the Board could not meet its burden to show otherwise. Once again, the *Ruan* decision does nothing to support the Board's claim their experts' competency could not be questioned.

Finally, the Board points to *Kohl's Dept. Stores, Inc. v. Bd. of Review of Dallas Co.*, 895 N.W.2d 486, 2016 WL 7403722 (Iowa App 2016) to support its argument that its experts were competent, but that case also does not help the Board. In *Kohl's*, the district court found the taxpayer's expert incompetent and the Court of appeals disagreed. Unlike the facts of this case, the expert in *Kohl's* performed a comparable sales analysis, and there was no dispute the properties they looked at were comparable to the Kohl's store that was subject to property tax. The district court had found his testimony incompetent for not making proper adjustments between his comparable sales and the subject property, but the appellate court disagreed and found that "wholesale rejection of his opinion was inappropriate because

the properties he used for comparison purposes were sufficiently similar to support admission of his testimony." *Id.* at *3. Unlike the expert in *Kohl's* the Board's experts in this case admit they failed to look at similar properties in their comparable sales analysis. As a result, the holding in Kohl's does not apply here.

In sum, the court decisions cited by the Board in its application do not support the Board's claim that Kenney and Manternach must be considered competent expert witnesses. It is undisputed the sales they used in their comparable sales analysis were not sufficiently similar to the subject properties to be useful in setting a fair market valuation. All the cases cited by the Board involve experts who either all used similar properties, or, as in the *Ruan* case, involve experts who all agreed there were no similar properties so "other factors" could be considered. All these cases do is confirm the Court of Appeals was correct in finding the Board's experts incompetent to testify as to value.

II. The Reliability of the Sales Approach is not Lessened by its Use in Conjunction with the Income and Cost Approaches

Citing to *Equitable Life Ins. Co. v. Bd. Of Review of City of Des Moines*, 281 N.W.2d 821 (Iowa 1979) the Board argues that the sales comparison approach by itself is not reliable to value the Nationwide

properties, and that the Court must also consider the income and costs methods. The Board further argues that under *Equitable Life*, it is possible for the Board to meet its burden with evidence from only one expert even after the burden shifts.

In response, as the Board notes in its Application, the *Equitable Life* case does not involve a dispute regarding whether there is sufficient sales data available to determine market value. Instead, the parties agreed that market value for the property could not be readily ascertained through the sales method alone but had to be determined by use of the "other factors" approach. *Id.* at 825. In the Nationwide case there was no such agreement, and Nationwide obtained two appraisals based primarily on the sales method. While Nationwide's experts did also perform cost and income analyses, they relied primarily on the sales approach as required by Iowa law. Nothing in the *Equitable Life* case says otherwise.[2]

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[2] The Board also cites to *Heritage Cablevision v. Bd. Of Review of City of Mason City*, 457 N.W.2d 594 (Iowa 1990), for the proposition that it is appropriate to use multiple approaches to valuation in a property tax appeal, and not just rely on the sales method. In that case, however, the assets being valued were cable company assets such as dish mechanisms, steel tower structures, transmission cables and other equipment (i*d.*at 596) and the Court found that the value could not be established by comparable sales alone and "other factors" would have to be used. *Id.* at 597. Those circumstances are not present in this case.

As for the burden of proof, Nationwide agrees that once Nationwide shifted the burden of proof to the Board by presenting the testimony of two disinterested witnesses, there is no requirement in the statute that the Board needs testimony from two witnesses of its own to carry the burden. But in this case the Court of Appeals found on *de novo* review that neither of your experts presented competent evidence that would carry the burden of proof on behalf of the Board. As a result, the language the Board cites from *Equitable Life* does not change the outcome.

III. On De Novo Review the Court of Appeals Considered All Relevant Evidence Necessary for its Decision.

The Board's final argument misinterprets the way *de novo* review works, so it helps to look at both underlying decisions in this case. The District Court found that Nationwide produced two disinterested witnesses that utilized the appropriate methods for valuing property for tax purposes, shifting the burden to the Board. (App. at 0128) But the District Court also found that the Board's experts were more reliable than Nationwide's experts and gave more weight to their testimony. (App. at 0129).

On *de novo* review, the Court of Appeals came to a different conclusion regarding the evidence. It found the Board's experts did not present competent evidence of the value of 1100 and 1200 Locust, and the

Board did not carry its burden under section 442.21(3)(b) to uphold the assessed value. As the Court of Appeals noted: "Our review of a tax protest is de novo. We give weight to the district court's findings of fact, but we are not bound by them." (Court of Appeals decision at p. 7, citations omitted).

The Board seems to be arguing that by making the findings it did, the Court of Appeals did not consider admissible evidence. But the entire concept of *de novo* review means the Court of Appeals did consider all the evidence, but just reached a different decision. As the Supreme Court has stated:

> Where our review is *de novo*, as here, it is their responsibility to examine the whole record, review the facts as well as the law and determine from the credible evidence rights anew on those propositions properly presented, provided issues have been raised and error, if any, preserved in the course of trial proceedings. While, as stated, weight will be given to the findings of the trial court, this court will not abdicate its function as triers de novo on appeal.

White v. Board of Review of Polk County, 244 N.W.2d 765, 772 (Iowa 1976).

Further, while the District Court did find the Board's experts to be more credible (App. at 0130), the Board is mistaken that the District Court found Nationwide's witnesses were not credible. The District Court found Nationwide's experts "utilized the appropriate methods for valuing property for tax purposes" and shifted the burden to the Board to uphold the assessment. (App. at 0128). A review of the District Court's decision shows there isn't a single statement doubting the credibility of Nationwide's experts.

The Board is simply mistaken if it believes the District Court ruled Nationwide's experts lacked credibility or their opinions were not persuasive. Instead, the District Court incorrectly found the Board's experts were more credible and reliable. But once the Court of Appeals correctly determined the Board's expert testimony was not competent, the Board could not carry its burden and all that was left was the evidence presented by Nationwide's experts. That was more than enough on de novo review to reverse the District Court.

CONCLUSION

Under Iowa law, "market analysis is the preferred method of determining actual value. If market analysis can provide a reliable estimation of value, the process is at an end. **"Other factors" may be considered *if,***

***and only if*, market value cannot be readily established through the preferred market analysis.**" *Wellmark, Inc. v. Polk County Board of Review*, 875 N.W.2d 667, 679 (Iowa 2016.)

The *Wellmark* decision did not change Iowa law regarding the preference for market analysis to set value. But it did set the framework for what types of properties to utilize when performing a market analysis for large single tenant properties. In this case, Nationwide's experts determined market value using comparable sales, the District Court found Nationwide had shifted the burden to the Board, and that should end the analysis since the Board failed to present any competent evidence that the value could not be established using the comparable sales approach.

Because the Court of Appeals applied these principals consistent with this Court's directives, further review is unnecessary.

Dated this 25th day of March 2022.

/s/ *Sean Moore*

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CERTIFICATE OF SERVICE AND FILING

I hereby certify that on March 25, 2022, I electronically filed this Resistance to Application for Further review on all parties to this appeal by EDMS, which will electronically serve the attorneys of record.

/s/ *Dusty N. Weiser, Legal Assistant*

CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMITATION, TYPEFACE REQUIREMENTS, AND TYPE-STYLE REQUIREMENTS

1. The brief complies with the type-volume limitation of Iowa Rule of Appellate Procedure 6.1103(4) because:

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/s/ *Sean Moore* — *March 25, 2022*
SEAN MOORE — Date