
**IN THE IOWA SUPREME COURT
APPELLATE NUMBER 19-1689
(HOWARD COUNTY CASE NO. EQCV017058)**

GREAT WESTERN BANK, :

Plaintiff, :

v. :

CONRAD D. CLEMENT; MANACO, CORP.; :

and PARTIES IN POSSESSION, :

Defendants. :

WAYNE JOSEPH MLADY, :

Appellant-Cross Appellee :

v. :

SUE ANN DOUGAN, :

Appellee-Cross Appellant :

**APPELLEE-CROSS APPELLANT'S
PROOF BRIEF**

**HEINY, McMANIGAL, DUFFY,
STAMBAUGH & ANDERSON, P.L.C.**

John L. Duffy AT0002227
11 Fourth Street NE
P.O. Box 1567
Mason City, Iowa 50402-1567
Telephone: 641-423-5154
Facsimile: 641-423-5310
Email: jduffy@heinyllaw.com

**ATTORNEYS FOR APPELLEE-CROSS
APPELLANT**

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STATEMENT OF THE ISSUES PRESENTED FOR REVIEW

ISSUE I. THE DISTRICT COURT CORRECTLY RULED THAT DOUGAN REDEEMED IN A TIMELY MANNER.

ISSUE II. THE DISTRICT COURT CORRECTLY RULED THAT MLADY WAS NOT ENTITLED TO INTEREST ON THE CERTIFICATE OF PURCHASE AFTER HE SURRENDERED IT FOR THE SHERIFF'S DEED ON MAY 23, 2018.

CROSS APPEAL

ISSUE III. THE DISTRICT COURT INCORRECTLY RULED THAT DOUGAN WAS REQUIRED TO REDEEM BY PAYING THE DEFAULT RATE OF 21 PERCENT ON THE CERTIFICATE OF PURCHASE.

ROUTING STATEMENT

The Supreme Court should ordinarily retain this case since it presents a substantial issue of first impression; that is, whether the contract rate on the Certificate of Sale is the “base rate” or the “default rate” expressed in the underlying Promissory Notes under Code § 628.13 of the Iowa Code. Iowa R. App. P. 6.1101(2)(c) (2017).

STATEMENT OF THE CASE

A. Nature of the Case

This appeal arises from the remand proceedings in the Iowa District Court for Howard County from the decision in the Court of Appeals of Iowa filed March 20, 2019, Great Western Bank, Plaintiff, v. Conrad D. Clement; Manaco, Corp.; and Parties in Possession, Defendant, Sue Ann Dougan, Appellant v. Wayne Joseph Mlady, Appellee pursuant to Court of Appeals Decision for “remand for entry of judgment consistent with this opinion . . .” and in addition redirecting “the District Court to determine whether the redemption was timely under Chapter 628 . . .” Great Western Bank v. Clement, No. 18-0925, 2019 WL 1294797 at *4 (Iowa Ct. App. 2019).

B. Statement of the Facts

As outlined in the Court of Appeals Decision, this case began in 2016 when Great Western Bank filed a Petition in District Court alleging Conrad Clement, the debtor, was in default under the terms of his mortgage. Id. at Table 1. The

Bank requested foreclosure of the mortgage secured by 208 acres of agricultural land to satisfy the judgment. Suit on Notes and Mortgage Foreclosure Petition (App. ____).

In January 2017, the Bank filed its Motion for entry of a default judgment against Clement. Motion for Default Judgment (App. ____). On February 3, 2017, the District Court entered an Order finding Clement and the parties in possession in default and entered default judgment against them. Order for Judgment (App. ____). The Bank submitted a proposed Decree on March 24, 2017, granting the Bank's request to foreclose against the farm real estate. Foreclosure Decree (App. ____). The Decree provided that there shall be a one year redemption following sheriff's sale exclusive to Defendant Conrad D. Clement. *Id.* at ____.

Wayne Mlady purchased the farm at Sheriff's sale on May 22, 2017, for \$1,600,001. May 31, 2019 Transcript, Ex. 7, Sheriff's Deed (App. ____).

As stated by the Court of Appeals, "almost eleven months later, Sue Ann Dougan filed a Petition in the case essentially

seeking entry of a declaratory judgment in her favor.”

Clement, No. 18-0925, 2019 WL 1294797 at *1.

Dougan complied with the redemption statutes (Chapter 628 of the Iowa Code), as shown by her filings with the Clerk of Court.

On March 30, 2018, Dougan tendered her cashier’s check to the Clerk of Court in the amount of \$1,690,000 in order to redeem the real estate pursuant to § 628.13 and § 628.19 of the Iowa Code. May 31, 2019 Transcript, Ex. 1A, Check for \$1,690,000 (App. ____).

On April 2, 2018, after being advised by the Clerk of Court through her attorney that she would have to ask the District Court to determine the applicable “contract rate and amount for redemption,” she filed:

- (a) Petition to: (a) Determine Applicable Rate of Interest on Certificate of Purchase; and (b) Ratify and Confirm Redemption pursuant to § 628.21 which provided that, “In case any question arises as to the right to redeem, or the amount of any lien, the

person claiming such right may deposit the necessary amount thereof with the clerk, accompanied with the affidavit above required, and also stating therein the nature of such question . . . which question or objection shall be submitted to the court as soon as practicable . . .”; Petition to Determine Interest Rate (App. _____)

- (b) Affidavit of Redemption reciting her desire to redeem filed in accordance with § 628.21; Affidavit of Redemption (App. _____)
- (c) Debtor’s Assignment of Exclusive Right of Redemption; Acceptance of Assignment reciting that she had accepted Conrad D. Clement’s assignment of his exclusive right of redemption pursuant to § 628.25; Assignment of Right to Redeem (App. _____) and
- (d) Brief in Support of Redemption. Brief in Support (App. _____).

Essentially, Dougan alleged by her filings that she was a valid assignee of Conrad D. Clement's right to redeem and that the Court should determine the applicable contract rate on the Certificate of sale from May 22, 2017, and the amount of the refund to be paid to her by the Clerk of Court pursuant to Section 628.20.

Dougan proposed to pay interest on the amount of the Certificate of Purchase at the variable rate of 4.25 percent per annum as specified in the two Promissory Notes upon which judgment was entered from May 22, 2017, to date of deposit of the cashier's check to accomplish the redemption on March 30, 2018.

As stated in the Court of Appeals decision, Dougan sought a "declaration of her assignment's validity, as well as calculation of the interest due to redeem the assignor-debtor's foreclosed property." Clement, No. 18-0925, 2019 WL 1294797 at *1.

Hearing was held on Dougan's Petition on April 23, 2018. Order was filed on April 25, 2018, that Dougan's assignment

of redemption rights from Conrad D. Clement was not valid and enforceable. April 25, 2018 Order (App. ____).

Thus, the Trial Court did not rule on Dougan's Petition to determine the applicable interest rate and the amount to redeem.

On May 21, 2018, Dougan tendered her cashier's check to the Clerk of Court in the amount of \$247,001 as a provisional payment in case the Trial Court should subsequently decide the 21 percent default rate was necessary to redeem. May 31, 2019 Transcript, Ex. 2A, Check for \$247,001 (App. ____).

The redemption period expired May 22, 2018.

On May 23, 2018, Mlady surrendered the Certificate of Purchase to the Sheriff of Howard County and received the Sheriff's Deed to the real estate which he recorded on May 23, 2018. May 31, 2019 Transcript, Ex. 7, Sheriff's Deed (App. ____).

Dougan filed her Notice of Appeal on May 24, 2018. (App. ____)

On May 30, 2018, the District Court refused to stay the proceedings and to order return of the Sheriff's Deed and set supersedeas bond in the amount of \$20,000. Order (App. ____).

The Iowa Court of Appeals reversed the Trial Court on March 20, 2019. Clement, No. 18-0925, 2019 WL 1294797. The Supreme Court denied further review on May 17, 2019. Supreme Court Order (App. ____).

The Court of Appeals remanded the case to the District Court "for entry of judgment consistent with this opinion. Additionally, we direct the district court to determine whether the redemption was timely under chapter 628 . . ." Clement, 18-0925, 2019 WL 1294797 at *4.

Contrary to Mlady's argument in his proof brief that the Trial Court did not fulfill this mandate of the Court of Appeals, the Trial Court did so:

- (a) by hearing on remand held on May 31, 2019;
- (b) by its Ruling on Remand issued June 12, 2019;

- (c) by its hearing on the parties' Motions to Amend held on July 22, 2019; and
- (d) by its Order on the Motions to Amend filed September 28, 2019.

Although neither party agreed with all of the Trial Court's Rulings, the Trial Court did carry out the mandate of the Court of Appeals as required by City of Okoboji v. Iowa Dist. Court for Dickinson County: "On remand, the jurisdiction of the case is returned to the district court for the purpose of doing the act authorized or directed by the appellate court in its opinion 'and nothing else.'" City of Okoboji v. Iowa Dist. Court for Dickinson County, 744 N.W. 2d 327, 331 (Iowa 2008).

As discussed in the following Issues and Argument portion of Dougan's Brief, the Trial Court complied with the following mandates:

1. In both Rulings, the Court found that Dougan was entitled to redeem as assignee of Clement and to become the legal owner of the real estate. The Clerk

of Court was directed to change the title to the real estate into Dougan's name in both Rulings. Ruling on Remand (App. ____), unnumbered p. 3; September 28, 2019 Order (App. ____), unnumbered pp. 2-3.

2. The Trial Court ruled on Dougan's Petition to determine the applicable contract rate as requested in her Petition filed April 2, 2018, before the redemption period lapsed and before the appeal. The Trial Court found that the 21 percent default rate on a 365/360 basis was to be used to calculate the interest on the principal balance of the Certificate of Purchase in the amount of \$1,600,001. A per diem interest of \$933.33 and for a total payment for the Certificate of Purchase of \$1,938,799.79. Ruling on Remand p. ____; September 28, 2019 Order p. _____. Dougan was able to get the ex parte stay lifted to make the additional payment of \$1,798.79 prior to filing of

her Notice of Cross Appeal and approval of supersedeas bond;

3. The Trial Court ruled on September 28, 2019, that Dougan's obligation to pay interest on the Certificate of Purchase terminated on May 23, 2018, when Mlady surrendered the Certificate for the Sheriff's Deed. Id. at _____.

Thus, the Trial Court accomplished the mandates required by the Court of Appeals and did "nothing else." Okoboji, 744 N.W.2d at 331. The remedy is to remand for further proceedings if the Court felt otherwise.

Before Dougan could pay the Clerk of Court \$1,798.79 to comply with the September 28, 2019, Ruling and her share of Court costs in the amount of \$145, in accordance with Statement of Costs efiled October 2, 2019, (App. _____), Mlady filed a Motion for Stay of Execution of Judgment on October 4, 2019, and obtained an Ex Parte Order that "Execution of Judgment in this case is stayed until further court order." Motion for Stay (App. _____).

Telephone hearing was held on October 9, 2019. The Court instructed “counsel to prepare an enrolled order approving” their agreement on pending motions. Order (App. ____).

On October 11, 2019, the Court entered an Order that the prior stay order “remains in effect until the trial court can take further action on the appeal bond and related issues,” when the Trial Court returned to work on October 29, 2019. Order (App. ____).

Dougan filed her Motion to Quash Stay and to approve Dougan’s Proposed Order on October 22, 2019, since Mlady’s attorney had failed to draft the Proposed Order and submit it. Motion to Quash, (App. ____).

Eventually the District Court signed an Agreed Order filed November 8, 2019, which provided that the stay imposed by Ex Parte Order filed October 4, 2019, “is lifted for the sole purpose of allowing and acknowledging the deposit of \$1,798.79 by Sue Ann Dougan with the Clerk of Court” on October 8, 2019, to complete the deposit of redemption funds

as ordered by the Court on September 28, 2019. Agreed Order (App. ____).

Mlady filed Notice of Appeal on October 4, 2019. Notice of Appeal (App. ____).

Immediately after making the deposit of \$1,798.79 and paying her share of court costs of \$145 on October 8, 2019, at 1:30 p.m. Dougan filed her Notice of Cross-Appeal at 3:08 p.m., thus complying with Iowa R. App. P. 6.601(1) which provides that, “no appeal shall stay proceedings under a judgment or order unless the appellant executes a bond with sureties, to be filed with and approved by the clerk of court . . .” Dougan Notice of Cross-Appeal (App. ____).

The supersedeas bond of Mlady in the amount of \$1,938,799.79 was approved after the deposit of all the redemption funds, including the \$1,798.79 paid on October 8, 2019.

ISSUE I. THE DISTRICT COURT CORRECTLY RULED THAT DOUGAN REDEEMED IN A TIMELY MANNER.

A. PRESERVATION OF ERROR.

Dougan did not allege error on this issue. Dougan timely filed her Notice of Cross-Appeal on October 8, 2019, from the Ruling on Remand filed on June 12, 2019 (App. ____) and Order filed on September 28, 2019, (App. ____), and all adverse Rulings and Orders entered therein. Dougan Notice of Cross-Appeal (App. ____).

B. SCOPE AND STANDARD OF REVIEW.

An Appellate Court's review of the District Court's grant or denial of equitable relief is de novo. Decorah State Bank v. Wangsness, 452 N.W.2d 438, 439 (Iowa 1990). To the extent issues of statutory construction are raised on appeal, the standard of review is for the correction of errors at law. Porter v. Harden, 891 N.W.2d 420, 424 (Iowa 2017); Johnson Propane, Heating & Cooling, Inc. v. Iowa Dep't. of Transp., 891 N.W.2d 220, 224 (Iowa 2017).

C. ARGUMENT

MAY 31, 2019, HEARING ON REMAND

Left to be decided at this hearing was Dougan's request for "calculation of the interest due to redeem the assignor-debtor's foreclosed property," Clement, No. 18-0925, 2019 WL 1294797 at *1, which she had filed in the form of her Section 628.21 Petition to Determine the Applicable Rate of Interest on the Certificate of Purchase on April 2, 2018, before the redemption period had lapsed and before she filed her appeal.

At the remand hearing, Dougan testified at length concerning her attempts to use the statutory procedure to redeem the real estate. May 31, 2019 Transcript (App. _____, pp. 15-27).

She introduced the two Promissory Notes sued on by Great Western Bank against Clement to obtain the default judgment in the amount of \$1,850,199.36 against Clement. Id. at 18, lines 14-24.

Both of those Notes established a base rate of interest of 4.25 percent and a default rate of 21 percent. Both

Promissory Notes provided for payments to “be applied first to any unpaid interest; then to principal . . .” Id. Ex. 3A and Ex. 4.

Dougan testified that she had deposited the amount of \$1,690,000 on March 30, 2018, with the Clerk of Court in order to redeem based upon the base rate of interest provided in the Promissory Notes of 4.25 percent, (Id. at p. 16, lines 11-25; p. 17, lines 1-15) and also a provisional payment in the amount of \$247,001 on May 21, 2018. (Id. at p. 21, lines 19-22; p. 17, lines 5-15).

Dougan’s expert witness, certified public accountant Timothy J. Schupick, offered testimony on two amortization schedules, 4.25 percent and 21 percent, both computed on a “365/360 basis.” Id. at pp. 44-51.

Schupick’s expert testimony was that the amount paid for redemption on March 30, 2018, in the amount of \$1,690,000 was sufficient for redemption of Mlady’s Certificate of Purchase as of that date based upon an interest rate of 4.25

percent, entitling Dougan to a refund of \$31,065.63 from the Clerk of Court as of that date. Id. at Ex 5.

Expert Schupick testified that:

- (a) based upon the base interest rate of 4.25 percent on the Certificate of Purchase in the amount of \$1,600,001 from May 22, 2017, and taking into account Dougan's payment of \$1,690,000 on March 30, 2018, and \$247,001 on May 21, 2018, Dougan would be entitled to a refund of \$278,066.63 as of May 21, 2018. Id. at p. 46, lines 8-25; p. 47, lines 1-4; Ex. 5 Amortization Schedule 4.25%.
- (b) based upon the default interest rate of 21 percent on the Certificate of Purchase in the amount of \$1,600,001 from May 22, 2017, and taking into account Dougan's payments of \$1,690,000 on March 30, 2018, and \$247,001 on May 21, 2018, Dougan would be entitled to a refund of \$39,696.72 if Dougan were to receive credit against the

computation of interest for those payments. Id. at p. 48, lines 3-25; p. 49, lines 1; Ex. 6 Amortization Schedule 21%.

The Trial Court did not adopt any of expert Schupick's opinions.

Dougan asked the Court for auxiliary injunctive relief to issue her a Sheriff's Deed to the real estate based upon the Supreme Court ruling. While the District Court did not specifically rule on her request for auxiliary injunctive relief, the District Court clearly provided that Dougan was entitled to redeem and to a change of title to the real estate naming her as owner.

Dougan and Mlady stipulated at the May 31, 2019, hearing that Mlady be entitled to farm the real estate for crop year 2019 for crop rent of \$66,250 payable upon entry of a final non-appealable judgment subject to his payment of real estate taxes on the real estate for crop year 2019 of \$8,397. Mlady subsequently paid these taxes. Id. at p. 75, lines 9-25; p. 76; p. 77, lines 1-6.

No stipulation was entered into by the parties regarding crop year 2018, nor crop year 2020 if that becomes an issue. 2018, and possibly 2020, rents and profits remain at issue.

JUNE 12, 2019, RULING

The District Court held in its Ruling dated June 12, 2019, that Dougan had timely redeemed and was entitled to a Report of Change of Title to the real estate stating that “Sue Ann Dougan has validly exercised the right to redeem the real estate described below from the special execution sale held May 22, 2017 by the Sheriff of Howard County, Iowa, in which Wayne Mlady was the purchaser and grantee in the Sheriff’s Deed filed for record on May 23, 2018, in Book 2018 at page 801 in the records of the Office of the Recorder for Howard County, Iowa:

SE1/4 NE1/4 AND E1/2 SW1/4 AND SE1/4 SECTION 26-99-12, HOWARD COUNTY, IOWA, EXCEPT THE PUBLIC HIGHWAY, SUBJECT TO EXISTING LEASEHOLD INTERESTS.”

The Court held that Sue Ann Dougan “is now the legal title owner of the real estate,” and that the clerk of district court “shall issue a Report of Change of Title to this real

estate, confirming legal title in the name of Sue Ann Dougan.”
Ruling on Remand unnumbered p. 3 (App. ____).

The Court ruled that the Clerk of Court pay the redemption funds paid to the Clerk by Sue Ann Dougan in the amount of \$1,600,001, “plus interest from the date of the sheriff’s sale on May 22, 2017, based upon an interest rate of 21% per annum, which computes to a per diem payment of \$933.33, computed to the date a check is issued to Wayne Mlady.” Id. at unnumbered p. 4.

With respect to the applicable rate of interest for redemption the Court held that, “Section 628.13 provides that redemption is based upon the contract rate as on the certificate of sale from the sale date. The original note rate was contractually increased by the terms of the note to the default rate.” Id. at unnumbered p. 3.

This finding of fact by the District Court spoke to the interest rate to be computed on the default judgment in the foreclosure decree, but did not specifically deal with the

“contract rate” to be computed on the Certificate of Purchase as requested in Dougan’s Section 628.21 Petition.

The Court cited Federal Land Bank of Omaha v. Bryant, 445 N.W.2d 761 (Iowa 1989) for authority for that proposition.

Further, the Court stated that Dougan was not entitled to reduction in her per diem interest rate based upon the second payment of \$247,001 on May 21, 2018, to the Clerk. Left undecided by the District Court was Dougan’s argument for reduction of per diem interest resulting from her payment of \$1,690,000 on March 30, 2018.

The Court cited Waterloo Savings Bank v. Carpenter, 9 N.W.2d 818 (Iowa 1943) and Olson v. Sievert, 30 N.W.2d 157 (Iowa 1947) in support of that proposition. Id. at unnumbered p. 3.

Thus, for the first time since Dougan filed her Petition on April 2, 2018, the District Court ruled on the applicable interest rate to be computed on Mlady’s Certificate of Purchase.

In her Brief, Dougan cited Waterloo Savings Bank v. Carpenter, and Federal Land Bank of Omaha v. Bryant, as authority for ruling upon the applicable contract interest rate to be paid for redemption. Brief in Support (App. ____).

In Waterloo Savings Bank, the court ruled both cases ruled that the mortgage rate of interest, not the statutory judgment rate of interest applied. The court ruled that rate was the fixed rate of interest as provided in the mortgage. Dougan attached to her Brief a copy of the 1939 statutes involved in this case, Iowa Code § 9405 (1939) establishing the mortgage rate of interest, and Iowa Code § 11784 (1939) establishing the statutory rate of interest. Neither statute deals with the issue of default.

In Federal Land Bank of Omaha, the court ruled that the contract rate was the variable rate of the loan.

The Court in neither case discussed the default rate of interest that Mlady argued should be adopted in the instant case where 21 percent was used to compute the default judgment amount of the Promissory Notes.

However, as stated in Federal Land Bank of Omaha v. Bryant, the interest under a variable rate loan should be computed in the same manner at the rate provided in the Note as if the debtor “were simply paying off the loan . . .” Federal Land Bank of Omaha, 445 N.W.2d at 763. This language does not require a calculation other than principal and interest due on the unpaid balance of the loan, or a determination that a default might exist as a prerequisite to the computation.

In response to the District Court Ruling on June 12, 2019, both parties filed Motions to Reconsider, Enlarge, and Explain Pursuant to Iowa R. Civ. P. 1.904(2). Mlady’s 1.904(2) Motion (App. ____); Dougan’s 1.904(2) Motion (App. ____).

Mlady argued in his Motion that Dougan failed to redeem by failing to pay the full amount of redemption required by the 21 percent rate in the amount of \$1,798.79, an argument he had initially raised on appeal.

Dougan argued in her Motion that if the \$1,798.79 was to be paid, she had an equitable right to make that additional

payment under applicable case law, notwithstanding her statutory right to do so pursuant to the Court ruling on her Section 628.21 Petition filed on April 2, 2018, to determine the applicable contract rate.

Further, she argued that Mlady was not entitled to interest on his Certificate of Purchase dated May 22, 2017, after he surrendered it to the Sheriff of Howard County on May 23, 2018, and received a Sheriff's Deed in exchange for the Certificate.

In addition, she argued that Mlady was entitled only to interest at 4.25 percent in accordance with her filings on April 2, 2018.

Immediately after filing its Ruling, the Court entered an additional Order stating that the Court "is advised that the clerk remains confused as to how to disburse the funds held in trust pursuant to the court's ruling pursuant to the remand." Order (App. ____).

The Court asked Mlady to file a written statement of disbursement and for Dougan to file a response.

JULY 22, 2019, HEARING

Hearing on all Motions was scheduled for July 22, 2019. Still pending and to be decided at the July 22, 2019, hearing was the decision by the District Court on Dougan's Petition to determine the "contract rate" of interest on the Certificate of Purchase originally filed on April 2, 2018.

If Mlady was to prevail that the applicable "contract rate" was the default rate of 21 percent and no credit was to be given against the accrual of interest by Dougan's payment of \$1,690,000 on March 30, 2018, from the date of that payment, an additional \$1,798.79 would have to be paid by Dougan in order to redeem. See Dougan Brief in Support of Motion to Reconsider, Enlarge, and Explain Pursuant to Iowa R. Civ. P. 1.904(2) filed June 27, 2019, (App. _____) and Sue Ann Dougan's Calculation for Redemption Post Ruling on Remand and Brief in Support. (App. _____)

Dougan had the equitable right to make that additional payment because "a court of equity may grant relief where a

party has been prevented from making redemption by accident or mistake.” Tharp v. Kerr, 119 N.W. 267, 268 (Iowa 1909).

In addition, Dougan had a statutory right to make the payment in response to the Court’s Ruling pursuant to her Section 628.21 Petition to determine the applicable contract rate raised in the April 2, 2018, filing before the lapse of the redemption period and the appeal.

In Olson v. Sievert, 30 N.W. 2d 157, 159 (Iowa 1947), the Supreme Court referred to Wakefield v. Rotherham, 25 N.W. 697 (Iowa 1885) for the equitable principle “that the right of redemption is favored by the law.” In Olson, the Supreme Court granted redemption after the redemption period had expired where a mistake was made by the deputy clerk and the deficiency was paid after the redemption period when the deputy clerk discovered her mistake. The Supreme Court held that redemption could be completed after the expiration of the one-year period of redemption provided by statute.

At the July 22, 2019, hearing on all pending Motions, Dougan argued that the District Court unquestionably had

equitable jurisdiction based upon the authority of Tharp v. Kerr, Olson v. Sievert, and Wakefield v. Rotherham.

Mlady argued that the \$1,798.79 deficit was a mistake made by Dougan or Dougan's attorney which barred her right to redeem. However, Dougan's "mistake" was not fatal, nor did it necessarily require her to resort to equity, where she had specifically exercised her statutory right to petition the Court to determine the contract rate of interest pursuant to Iowa Code Section 628.21 before the period of redemption expired, and the Court had not ruled. Additionally, her request was for a 4.25 base interest rate, not a 21 percent default rate which would create a "mistaken" deficit.

None of the instant cases cited enunciating the equitable right to redeem dealt with the factual scenario where Dougan, the redeemer, had petitioned the Court to determine the contract rate of interest to redeem prior to the expiration of the period of redemption and, by incorrect ruling from the District Court, had been barred from redeeming until after the period

of redemption had expired after the ruling was corrected after appeal.

Now that the bar to Dougan's right to redeem has been lifted, consistent with the Court of Appeals "remand for entry of judgment consistent with this opinion," ruling filed March 30, 2019, p. 9, Dougan should be given a reasonable period of time to pay the necessary amount to redeem as determined by the Trial Court's Ruling, particularly when Dougan had clearly indicated by paying \$1,690,000 on March 30, 2018, and the provisional amount of \$247,001 on May 21, 2018, that she was willing and able to redeem, in addition to filing her Section 628.21 Petition prior to the expiration of the redemption period.

ISSUE II. THE DISTRICT COURT CORRECTLY RULED THAT MLADY WAS NOT ENTITLED TO INTEREST ON THE CERTIFICATE OF PURCHASE AFTER HE SURRENDERED IT FOR THE SHERIFF'S DEED ON MAY 23, 2018.

A. PRESERVATION OF ERROR

Dougan initially preserved error by filing her Rule 1.904 Motion. Dougan Rule 1.904 Motion (App. ____). Dougan timely filed her Notice of Cross-Appeal on October 8, 2019, from the Ruling on Remand filed on June 12, 2019 (App. ____) and Order filed on September 28, 2019, (App. ____), and all adverse Rulings and Orders entered therein. Dougan Notice of Cross-Appeal (App. ____).

B. SCOPE AND STANDARD OF REVIEW

An Appellate Court's review of the District Court's grant or denial of equitable relief is de novo. Decorah State Bank v. Wangsness, 452 N.W.2d 438, 439 (Iowa 1990). To the extent issues of statutory construction are raised on appeal, the standard of review is for the correction of errors at law. Porter v. Harden, 891 N.W.2d 420, 424 (Iowa 2017); Johnson

Propane, Heating & Cooling, Inc. v. Iowa Dep't. of Transp., 891 N.W.2d 220, 224 (Iowa 2017).

C. ARGUMENT

Mlady surrendered his Certificate of Purchase to the Sheriff of Howard County on May 23, 2018, May 31, 2019 Transcript, Ex. A, Certificate of Purchase (App. ____) in exchange for the Sheriff's Deed to the real estate. May 31, 2019 Transcript, Ex. 7, Sheriff's Deed (App. ____).

He became the grantee of the Sheriff's Deed which clearly provided, "this deed is given upon the surrender of the Sheriff's Certificate of Purchase, the same having been issued on 5/22/2017 in Cause Number EQCV017058." Id. at (App. ____, Ex. 7).

This documentation clearly indicates that Mlady could not be the "holder" of the Certificate of Purchase and the owner of the real estate at the same time.

The statutory language supports payment of interest to the "holder" of the Certificate of Purchase.

Iowa Code Section 628.13 provides for payment of all sums paid by the “holder” in effecting redemption added to the amount of the “holder’s” own lien or the amount the “holder” has credited thereon.

The statute also provides that redemption may be made by the titleholder presenting to the Clerk of the District Court the “sheriff’s certificate of sale properly assigned to the titleholder . . .” Id.

Iowa Code Section 628.11 provides for redemption by a creditor of the amount paid by the “holder of the certificate.” Mlady is not a “holder” of the Certificate of Purchase as referenced in these statutes having surrendered it for the Sheriff’s Deed, and he is not entitled to interest on the Certificate.

Mlady argues to the contrary that he is entitled to interest at 21 percent until he is paid by the Clerk of Court even though he now enjoys the economic benefit of the real estate after he became the owner and took possession on May 23, 2018. His argument would entitle him to a windfall of

interest at the default rate while also receiving the economic benefit of the real estate.

The language of the Sheriff's Deed, the above statutes, and the applicable case law do not support Mlady's argument.

Mlady cites Kupper v. Schlegel, 224 N.W. 813 (Iowa 1929) for the proposition that he is entitled to interest post redemption. The existing statute at the time of Kupper, Section 11784, Code 1924, provided that, "the terms of redemption, when made by the titleholder shall be the payment into the clerk's office of the amount of the certificate, and all sums paid by the holder thereof in effecting redemptions." Id. at 815.

Kupper does not hold for Mlady's proposition. The attempted redemption was from the holder of the Certificate of Purchase (the precise question being whether "payment to the clerk of a pro rata part of the amount paid by the certificate holder, predicated on the theory that he (assignee) has an undivided share of the tenancy in common . . ." constitutes an effective redemption). Id. at 813.

This case is distinguishable on its facts. Here, Mlady is not the holder of the Certificate of Purchase. He surrendered it on May 23, 2018. Nor does Dougan seek to pay only a portion of the Certificate of Purchase prior to the expiration of the redemption period on May 22, 2018. Dougan petitioned the Court for a ruling on the amount necessary to pay the full amount of redemption.

In Federal Land Bank of Omaha v. Bryant, 445 N.W.2d 761 (Iowa 1989) the issue was whether a former owner redeeming a homestead must reimburse the owner of a sheriff's certificate for protective advancements for real estate taxes. The Court held in the affirmative, but, the issue was payment to the holder of a sheriff's certificate. Again, Mlady is not the holder of the Certificate of Purchase in this case.

In its Ruling filed June 12, 2019, the District Court allowed Mlady interest on the Certificate of Purchase even after May 23, 2018, when he surrendered it for the Sheriff's Deed. Mlady recorded the Sheriff's Deed that same date.

Neither the cases cited by Mlady nor the distinguishing facts of this case support that result.

JULY 22, 2019, HEARING

At the July 22, 2019, Dougan reviewed with the District Court applicable cases.

In Olson v. Sievert, 30 N.W.2d 157 (Iowa 1947), Dr. Sievert was the owner and titleholder in possession. Foreclosure sale occurred on April 17, 1945. On April 16, 1946, Dr. Sievert's attorney redeemed but failed to pay the amount of a second mortgage due to the clerk's error. Berndt, a second mortgagee, fully redeemed and obtained a sheriff's certificate of sale. The Supreme Court allowed redemption by Dr. Sievert after the one-year period allowed by Section 628.3 for redemption because "the right of redemption is favored by the law" and Dr. Sievert was not negligent in accepting the computation of the clerk. Olson, 30 N.W.2d at 159.

The redeeming party, Dr. Sievert, was the owner and titleholder in possession of the real estate. Here the proposed redeeming party is Dougan, who is not in possession, nor the

owner or titleholder because barred from redemption by the April 25, 2018, Order. Berndt was the holder of the sheriff's certificate of sale. Here Mlady is not the holder of the Certificate of Sale having surrendered it for the Sheriff's Deed and having taken possession.

In Wakefield v. Rotherham, 25 N.W. 697 (Iowa 1885), plaintiff Wakefield purchased the real estate from the Estate of Bridget Fahey and became the owner in possession. Prior to plaintiff's purchase, the county had foreclosed on a school fund mortgage and purchased the real estate at Sheriff's sale on November 22, 1881. In July 1882 plaintiff Wakefield paid the clerk \$379 to redeem which amount was \$7.10 short due to a mistake made by the clerk. Defendant Rotherham fully redeemed from the clerk close to a year after the Sheriff's sale on November 20, 1882, and obtained an assignment of the certificate of purchase which the sheriff had issued to the county at the time of the Sheriff's sale. Owner Wakefield sued Rotherham in equity to cancel the assignment of the certificate of purchase. The Court ordered Wakefield to pay the \$379

plus the \$7.10 and interest. But Wakefield was the owner, titleholder, and in possession of the real estate, as is Mlady. Rotherham was the holder of a certificate of purchase, but Mlady is not, having surrendered it for the Sheriff's Deed.

Further, Wakefield knew of the deficiency in the amount of his payment and could have remedied the shortage at any time before Rotherham redeemed. He did not do so. Here, Dougan sought to pay the necessary amount under § 628.21 and asked the Court to determine that amount prior to May 22, 2018. The Court did not rule on her application before the period of redemption expired. The Court incorrectly barred her from redemption and she has been so barred since April 25, 2018, until the Court finally rules on her Petition. Dougan should not be charged with payment of interest to redeem on the necessary amount, as yet undetermined, which she could not pay even though she asked to do so.

In Waterloo Sav. Bank v. Carpenter, 9 N.W.2d 818 (Iowa 1943), Waterloo Savings Bank deposited \$3,383, the amount necessary to pay Comly's junior lien, but argued that Comly

was not entitled to interest on the deposit. The Court allowed for accrual of interest in favor of Comly because during the period of litigation in District Court and the appeal, Waterloo Savings Bank “had the use of the property.” *Id.* at 821. The Court reasoned that Comly should not be penalized by “the loss of the use of the money to which he was entitled, resulting from appellant’s effort to avoid payment in part.” *Id.* Here, Mlady, in the position of Waterloo Savings Bank, has been in possession and has had the use and economic benefit of the Real Estate since May 23, 2018. Here, Dougan has sought since April 2, 2018, to pay the necessary amount to redeem, not to avoid payment.

The above cases do not support Mlady’s claim to post redemption interest. In all of the cases, the redeeming party (Dr. Sievert, Wakefield, and Waterloo Savings Bank) is the owner, titleholder, and in possession of the real estate and the recipient of the interest to be paid for the redemption is the holder of a Certificate of Purchase without the benefit of possession. Here, Mlady claims entitlement to interest from

Dougan even though he is the owner in possession of the real estate.

Further, Dougan has been barred from redeeming since the April 25, 2018, Ruling. A ruling requiring Dougan to pay post redemption interest based upon the Trial Court's ruling would result in requiring her to pay at the 21 percent default rate, \$933.33 per diem, from May 23, 2018, on a debt to redeem she didn't have the legal right to pay until the final ruling in this case.

Further, Mlady made a decision on May 23, 2018, to surrender his certificate of purchase to the Sheriff in exchange for the Sheriff's Deed. He has been in possession of the real estate and has had the economic benefit of the real estate since that time. He has testified that he made a profit for crop year 2018.

**SEPTEMBER 28, 2019, RULING
ON IOWA R. CIV. P. 1.904(2) MOTIONS**

The District Court concluded it had authority to amend and correct its June 14, 2019, Ruling pursuant to Mlady's and Dougan's Iowa R. Civ. P. 1.904(2) Motions. Order (App., unnumbered p. 3).

In the September 28, 2019, Ruling, the Trial Court, "confirms its prior holding that Dougan has properly and timely exercised the right of redemption." Id. at unnumbered p. 3.

The Court corrected its Ruling on payment of post redemption interest to Mlady for the reasons stated above concluding that, "Mlady has had the benefit of the possession, use, and profits from the land since obtaining the Sheriff's Deed on May 23, 2018. Therefore, interest to Mlady should stop accruing on May 23, 2018." Id. at unnumbered p. 3.

The Trial Court denied Mlady's Motion to Amend and Enlarge the Trial Court's Remand Ruling filed on June 24, 2019, essentially denying Mlady's argument that because

Dougan had not paid the additional \$1,798.79 she failed to timely redeem. Id. at unnumbered p. 4.

The Trial Court approved Dougan's Motion to Amend and Enlarge in part by providing that:

- (a) Dougan's obligation to pay accruing interest to Mlady on the redemption balance ended as of May 23, 2018; Id. at unnumbered p. 4 and
- (b) Mlady is entitled to payment of \$1,938,799.79 for his Certificate of Purchase. Id. at unnumbered p. 4.

Essentially, this Ruling finalized the District Court's Ruling on Dougan's Petition to determine the applicable interest rate on the redemption originally filed on April 2, 2018, based upon the following computation at the 21 percent default rate:

\$1,690,000.00	paid March 30, 2018
\$ 247,001.00	paid May 21, 2018
\$ <u>1,798.79</u>	per Court Order dated September 28, 2019
\$1,938,799.79	total to redeem per Court Order dated September 28, 2019

The Trial Court did not amend its ruling to provide for computation of the amount to redeem at 4.25 percent.

In all other respects, the Trial Court confirmed its Order entered June 12, 2019.

CROSS-APPEAL

ISSUE III. THE DISTRICT COURT INCORRECTLY RULED THAT DOUGAN WAS REQUIRED TO REDEEM BY PAYING THE DEFAULT RATE OF 21 PERCENT ON THE CERTIFICATE OF PURCHASE.

A. PRESERVATION OF ERROR

Dougan initially preserved error by filing her Rule 1.904 Motion in which she again asked the Trial Court to compute interest on the amount to redeem at 4.25 percent in accordance with her § 628.21 Petition. Dougan Rule 1.904 Motion (App. ____). Dougan timely filed her Notice of Cross-Appeal on October 8, 2019, from the Ruling on Remand filed on June 12, 2019 (App. ____) and Order filed on September 28, 2019, (App. ____), and all adverse Rulings and Orders entered therein. Dougan Notice of Cross-Appeal (App. ____).

B. SCOPE AND STANDARD OF REVIEW.

An Appellate Court's review of the District Court's grant or denial of equitable relief is de novo. Decorah State Bank v. Wangsness, 452 N.W.2d 438, 439 (Iowa 1990). To the extent

issues of statutory construction are raised on appeal, the standard of review is for the correction of errors at law. Porter v. Harden, 891 N.W.2d 420, 424 (Iowa 2017); Johnson Propane, Heating & Cooling, Inc. v. Iowa Dep't. of Transp., 891 N.W.2d 220, 224 (Iowa 2017).

C. ARGUMENT

With her Petition to determine the contract rate filed on April 2, 2018, Dougan filed her Brief in Support of the Petition.

In her Brief Dougan cited the only two cases on point dealing with the “contract rate” for the redemption.

The Iowa Supreme Court held in Waterloo Sav. Bank v. Carpenter, 9 N.W.2d 818, 821 (Iowa 1943) that the mortgage rate of interest [Iowa Code § 9405 (1939)], not the statutory judgment rate of interest [Iowa Code § 11784 (1939)] prevailed and required the redeeming party to pay interest at that rate until time of redemption. Dougan attached a copy of the 1939 statutes referred to in that case.

There is no indication that the case dealt with a default rate of interest. The statutes cited did not deal with default.

The Iowa Supreme Court in Federal Land Bank of Omaha v. Bryant, 445 N.W.2d 761, 763 (Iowa 1989) held that interest under a variable rate loan should be computed in the same manner at the rate provided in the note as if the debtor “were simply paying off the loan”; that is, interest should be computed at the variable rate stated in the Promissory Note(s) upon which judgment was entered. Again, there is no indication in Federal Land Bank of Omaha that the case dealt with a default rate of interest. There was no reference in the Court’s discussion to a default rate.

Great Western Bank had filed its suit on Promissory Notes and Mortgage Foreclosure Petition on December 15, 2016. The suit was based on two Promissory Notes. May 31, 2019 Transcript, Ex. 3A and Ex. 4 (App. pp. ____).

Both Notes provided for a variable rate of interest at 4.25 percent per annum and a default rate of interest at 21 percent. Both Notes provided that “Upon default, including failure to pay . . . the interest rate on this Note shall be increased to 21.000% per annum based on a year of 360 days.”

The plain language of both Promissory Notes provided for computation of interest on the “outstanding principal balance” only. Obviously, this computation could be based upon the base rate of 4.25 percent as well as the default rate if the Notes were in default.

The language in Federal Land Bank of Omaha that the loan be computed in the same manner at the rate provided in the note as if the debtor “were simply paying off the loan” is indicative of computation of interest at the base rate as opposed to the default rate. Federal Land Bank of Omaha, 445 N.W.2d at 763. The Court did not require a decision that a default had occurred before paying off the loan.

Similarly, the plain language of the applicable statute, Iowa Code Section 628.13, provides that redemption be made by payment into the Clerk’s office the amount of the Certificate “with interest at contract rate on the certificate of sale from its date . . .” Notably, the statute does not state “default” contract rate.

The District Court found that the applicable rate of interest for interest for redemption is the default rate of 21 percent “not the original note rate of 4.25%.” Ruling on Remand, unnumbered p. 3.

The District Court properly cited the applicable statute, Section 628.13, for the proposition that redemption is based upon the “contract rate” on a certificate sale from the sale date. Id.

The District Court recited that “the original note rate was contractually increased by the terms of the note to the default rate.” Id. That finding is true as it relates to the computation of the judgment amount but does not support the proposition that contractual increase affected the Certificate of Purchase from the Sheriff’s sale after judgment was entered.

The District Court cited Federal Land Bank of Omaha v. Bryant in support of its finding. However, the language of that case that “the loan be computed in the same manner at the rate provided in the note as if the debtor were simply paying off the loan” contradicts the Court’s finding since the loan can

be paid off, and most likely, in most instances, would be paid off, without a finding that a default rate should be applied.

See id.

The Waterloo Sav. Bank and Federal Land Bank of Omaha cases are the only two cases on point, and they do not support the finding that the default rate of 21 percent should be applied to the redemption of the Certificate of Purchase in this case.

To the contrary, the language in the Promissory Notes, in the Federal Land Bank of Omaha case, and in Section 628.13 supports a finding of the base rate of interest instead of the default rate of interest.

Mlady's Certificate of Purchase did not state a rate of interest. May 31, 2019 Transcript, Ex. A, Certificate of Purchase (App. ____).

There are several reasons for the Supreme Court to approve and adopt Dougan's Petition to order redemption at the 4.25 percent interest rate as opposed to the 21 percent default rate.

First, as in all foreclosure cases, the Promissory Notes sued on were in default at the time of filing the foreclosure lawsuit and entry of judgment. Otherwise, a foreclosure petition would not have been filed in either case. The Supreme Court, in both Waterloo Sav. Bank and Federal Land Bank, could have said that the contract rate was the default rate used to compute the judgment amount. Neither Court so stated.

Second, the statutory scheme to entice the debtor to redeem as well as the well established common law holding that “the right of redemption is favored by the law” (would be frustrated by imposing a default rate of interest in every foreclosure case. See Olson v. Sievert, 30 N.W.2d 157, 159 (Iowa 1947).

Thirdly, and most importantly, Mlady’s Certificate of Purchase was never in default. The Certificate of Purchase did not provide a rate of interest. Mlady purchased the real estate at sheriff’s sale on May 22, 2017, for \$1,600,001. Mlady

exchanged this Certificate of Purchase, unchanged in amount, for the Sheriff's Deed on May 23, 2018.

When the real estate was sold at Sheriff's Sale on May 22, 2017, \$1,600,001 of the judgment was paid in full, and that portion of the Promissory Notes was satisfied by the sale. The mortgage securing payment of the Promissory Notes was extinguished as of May 22, 2017. Mlady's assertion in footnote 1 on page 12 of his Proof Brief that the Promissory Notes are still in default is wrong except for the deficiency judgment which is not relevant to this redemption. The Promissory Notes were paid by Mlady's purchase at the Sheriff's Sale and replaced by the Certificate of Purchase. A deficiency of \$250,198.36 continued to exist but that deficiency was no longer secured by the mortgage since the mortgage was extinguished. May 31, 2019 Transcript (Attachment to Ex. A, Certificate of Purchase) (App. ____).

The deficiency became unsecured and no longer was relevant to the relationship of the mortgage to the redemption.

Order Granting Plaintiff's Motion for Default Judgment and Motion for Summary Judgment and Judgment and Decree of Foreclosure, specifically page 6, paragraph D, clearly provides that judgment is entered on the Promissory Notes and substituted for them and "Lender's Mortgage" is foreclosed against all defendants and barred and foreclosed against the real estate "except for statutory redemption rights." (App. ____).

This result of the Sheriff's Sale is also documented by the attachment to Mlady's Certificate of Purchase. May 31, 2019 Transcript, Ex. A, attachment to Certificate of Purchase (App. ____).

There is a deficiency judgment, but the deficiency judgment is unsecured and not related to the Certificate of Purchase which paid a portion of the Promissory Notes. The default rate of interest no longer applied to that portion of the Promissory Notes in the amount of \$1,600,001 paid by Mlady's purchase.

This reasoning was adopted by the U.S. Court of Appeals for the Sixth Circuit on appeal from the United States District Court for the Eastern District of Michigan in Royal Manor Apartments, LLC v. Federal Nat. Mortg. Ass'n., 614 F. App'x 228, 235-236 (6th Cir. 2015).

Basically, the Court reasoned the mortgage ceased to exist after the foreclosure sale. The default interest provision no longer applied to that portion of the Promissory Notes satisfied by the sale since there was no longer a default with respect to the portion of the Promissory Notes which were paid at the sheriff's sale and which the Certificate of Purchase superseded and replaced.

Thus, the interest rate to be applied to the redemption was the baseline rate of the Promissory Notes, not the default rate. Id. at 236.

In Royal Manor, the Michigan statute involved provided for redemption of foreclosed property by payment of "the amount that was bid for the entire premises sold, interest from the date of the sale at the interest rate provided for by the

mortgage, the amount of the sheriff's fee paid by the purchaser . . .” Id. at 235.

Thus, the Michigan rate of interest required for redemption in Royal Manor is equivalent to the contract rate as required by Iowa law.

To summarize, after the sheriff's sale on May 22, 2017, that portion of the Promissory Notes paid for by the sale for which the Certificate of Purchase was issued were no longer delinquent. They were paid to the extent that redemption applied. The deficiency judgment was unsecured and had no connection to redemption. The Certificate of Purchase had no relevance or connection with the deficiency judgment. There was no longer a mortgage. There was no longer a default on the portion of the Promissory Notes paid by the Sheriff's Sale and displaced by the Certificate of Purchase. Mlady's Certificate of Purchase came into being replacing a portion of the two Promissory Notes in the amount of \$1,600,001 and the entire Mortgage. Statutory redemption rights came into being. Redemption was then to be accomplished by payment

of the contract rate at the base rate provided in the Promissory Notes and Mortgage, not the default rate. There was no default on the Certificate of Purchase. There was no longer a default on the portion of the Promissory Notes paid for by the purchase at sheriff's sale.

Dougan requests the Supreme Court to adopt the reasoning of the Royal Manor Sixth Circuit Court of Appeals in adopting 4.25 percent as the applicable contract rate of interest for Dougan's redemption.

CONCLUSION

The Trial Court satisfied the mandates of the Court of Appeals on Remand.

Dougan has deposited with the Clerk of Court total funds for redemption in the amount of \$1,938,799.79 as follows:

\$1,690,000.00	paid March 30, 2018
\$ 247,001.00	paid May 21, 2018
\$ <u>1,798.79</u>	paid October 9, 2019, in accordance with Court Order dated September 28, 2019
\$1,938,799.79.	

Dougan requests that:

- (1) The Court order a refund paid to her pursuant to § 628.20 of \$270,609.86 based upon the following computation:

\$1,938,799.79
- \$1,668,189.93
\$ 270,609.86

based upon the following amortization schedule:

Nominal Annual Rate 4.250%: U.S. Rule (no compounding), 360 day year

<u>Event</u>	<u>Date</u>	<u>Amount</u>
1. Loan	05/22/2017	\$1,600,001.00
2. Payment	05/23/2018	\$1,668,189.93

AMORTIZATION SCHEDULE

<u>Loan</u>	<u>Date</u>	<u>Payment</u>	<u>Interest</u>	<u>Principal</u>	<u>Balance</u>
Loan	5/22/2017				\$1,600,001
	5/23/2018	\$1,668,189.93	\$68,188.93	\$1,600,001	
2018 totals		\$1,668,189.93	\$68,188.93	\$1,600,001	00

(App. _____, 1st Ex.)

plus interest on the refund as provided in the Agreed

Order filed November 8, 2019; and

- (2) The Court order the Clerk of Court to immediately issue to her a Change of Title to the Real Estate suitable for recording.

REQUEST FOR ORAL ARGUMENT

Pursuant to Iowa R. App. P. 6.903(2)(i), Sue Ann Dougan, Appellee-Cross Appellant, requests oral argument.

Respectfully submitted,

**HEINY, McMANIGAL, DUFFY,
STAMBAUGH & ANDERSON, P.L.C.**

By: 

John L. Duffy AT0002227

11 Fourth Street NE

P.O. Box 1567

Mason City, Iowa 50402-1567

Telephone: 641-423-5154

Facsimile: 641-423-5310

Email: jduffy@heinylaw.com

**ATTORNEYS FOR APPELLEE-CROSS
APPELLANT SUE ANN DOUGAN**

CERTIFICATES OF COST, SERVICE, AND COMPLIANCE

CERTIFICATE OF COST

The undersigned attorney for Appellee-Cross Appellant certifies that the amount actually paid for printing and duplicating the necessary copies of this brief in proof form was **\$0.00.**

CERTIFICATE OF SERVICE

The undersigned attorney for Appellee-Cross Appellant certifies that on the date referenced below he filed this Proof Brief with the Clerk of the Supreme Court by EDMS on counsel for Appellant-Cross Appellee at:

Lynn Wickham Hartman
Simmons Perrine Moyer Bergman PLC
115 Third Street SE, Suite 1200
Cedar Rapids, IA 52401

Dawn Marie Gibson
Simmons Perrine Moyer Bergman PLC
115 Third Street SE, Suite 1200
Cedar Rapids, IA 52401

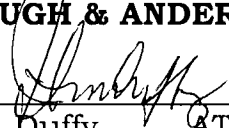
CERTIFICATE OF COMPLIANCE

1. This brief complies with the type-volume limitation of Iowa R. App. P. 6.903(1)(g)(1) because this brief contains 8,646 words, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(g)(1).

2. This brief complies with the typeface requirements of Iowa R. App. P. 6.903(1)(e) and the type-style requirements of Iowa R. App. P. 6.903(1)(f) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word 2016 with 14 point Bookman Old Style font.

Submitted and served this 10th day of March, 2020.

**HEINY, McMANIGAL, DUFFY,
STAMBAUGH & ANDERSON, P.L.C.**

By: 

John L. Duffy AT0002227
11 Fourth Street NE
P.O. Box 1567
Mason City, Iowa 50402-1567
Telephone: 641-423-5154
Facsimile: 641-423-5310
Email: jduffy@heinyllaw.com

**ATTORNEYS FOR APPELLEE-CROSS
APPELLANT SUE ANN DOUGAN**