**IN THE SUPREME COURT OF IOWA**
**No. 21-0774**
**Monroe County Case No. EQEQ009517**

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**QUALITY PLUS FEEDS, INC.,** Plaintiff-Appellee,
v.
**COMPEER FINANCIAL, FLCA,** Defendant-Appellant,

**ETCHER FAMILY FARMS, LLC; ETCHER FARMS, INC.; AGRILAND FS, INC.; DEWITT VETERINARY SERVICES, P.C. d/b/a DEWITT VETERINARY CLINIC; JASON DENNING; PRECISION PUMPING, INC.; and ELMWOOD FARMS, LLC,**
Defendants.

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**APPEAL FROM THE IOWA DISTRICT COURT FOR MONROE COUNTY**
**THE HONORABLE JUDGE DANIEL P. WILSON, DISTRICT COURT JUDGE**

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# APPELLANT'S RESISTANCE TO AMENDED APPLICATION FOR FURTHER REVIEW OF THE IOWA COURT OF APPEALS FILED APRIL 27, 2022

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## STATEMENT CONCERNING FURTHER REVIEW

As are all parties at the beginning of the appellate process, Quality Plus Feeds, Inc. ("Quality") was asked whether this case merited this Court's attention. *See* Iowa R. App. P. 6.903(1)(2)(d). Fresh off its victory in the District Court, Quality demurred: This case did not merit this Court's review "because it [only] involves the application of existing legal principles and is appropriate for summary disposition." Appellee's Brief, page 15.

However, dissatisfied with the Court of Appeals' remand, Quality now declares that this case "threatens the continued viability of Iowa's agricultural lien law, and thus the continued viability of struggling Iowa farms, also raising an issue of broad public importance…". Application, page 8.[1] A rather dramatic escalation of significance to say the least. More surprising in light of that Court's limited holding that Quality had failed to establish the required link (the identifiable proceeds) between the cows it fed and the proceeds recovered many months later. Quality now fears the future of the entire

[1] On May 17, 2022, Quality filed an Application with this Court for further review. The Application grossly exceeded the word count allowed by Iowa R. App. P. 6.1103(4). Compeer promptly filed a Motion to Strike/Dismiss. In response, Quality filed an "Amended" Application on May 19, shaving almost 3000 words from its original submission. Quality's response provides nary a word about its original filing, but the error having been corrected as required by this Court's Order on May 20, 2022, Compeer will address the merits of the Application.

livestock industry in Iowa hangs in the balance, when the Court of Appeals did little more than hold that the facts could not support Quality's motion for summary judgment.[2]

As discussed below, the Court of Appeals did err in one regard. It should have granted Compeer Financial, FLCA's ("Compeer") cross-motion for summary judgment. This case required Quality to show "identifiable proceeds" to which its agricultural input lien remained attached and perfected. Quality made no attempt to do so, and the District Court sanctioned this utter lack of proof. The Court of Appeals properly recognized the multiple, speculative leaps of logic in Quality's case, but it should have gone further and held that, both parties having conceded the completeness of the record for purposes of resolution, Quality lost and Compeer was entitled to summary judgment.

[2] Quality's insinuation that feed suppliers stand alone in protecting distressed livestock producers from financial ruin is fundamentally wrong. Compeer stands second to none in its respect, promotion, and protection of the agricultural community throughout the country, including Iowa. When the bankruptcy cases were dismissed, it was Compeer that kept advancing funds so the livestock would not starve to death, and it was Compeer incurring costs to make sure those livestock were humanely treated at all times. Quality was nowhere to be found other than to incessantly demand payment of its long-past bill; it never once offered to advance feed or assist in the orderly liquidation of the remaining livestock in any way.

## BRIEF

Quality's brief spends little to no time actually discussing the legal issues, and its recitation of the facts is generally irrelevant, incomplete, or simply wrong.

On a basic level, this case is a dispute over the liquidation of three separate dairy operations, and the resulting cash proceeds from milk sales and livestock sales. Quality's Application never mentions that the dairy operations were not one entity known as "Etcher Farms," *cf.* Application, page 12, but were three completely separate entities, Etcher Family Farms, LLC ("EFF"); Etcher Farms, Inc. ("EFI"); and Elmwood Farms, LLC ("Elmwood") (collectively "the Etcher Entities"). Intra-company transactions, to include transfers of heifers and/or milking cows between the entities, were nominally accounted for by the books and records of these three entities; calves were not "born into" an amorphous "Etcher Farms" herd. Quality never sold feed to Elmwood. Other than the heading, the Application nowhere mentions these three entities, nor the relationships among them.

The Application also skips over the 9- to 13-month gap between the last feed that was supplied arguably subject to a lien by Quality and the proceeds over which the current dispute relates. The Etcher Entities all filed bankruptcy in the Southern District of Iowa on March 18, 2018. During bankruptcy, the

Etcher livestock were fed on a pay-as-you-go basis. After the bankruptcy cases were dismissed, Compeer paid for their feed until they could be humanely processed. The bankruptcy proceedings were dismissed primarily because the Etcher Entities did not have any meaningful or consistent recordkeeping regarding their operations, including head counts or transfers of milking cows. This time gap passes unnoticed throughout Quality's Application.

## I. THE COURT OF APPEALS CORRECTLY DETERMINED THAT THERE WERE NUMEROUS GAPS IN THE RECORD SUFFICIENT TO DENY QUALITY'S MOTION FOR SUMMARY JUDGMENT.

The Court of Appeals declined the opportunity to apply the agricultural lien statute and its relationship to Article 9 in any depth. Opinion, page 4. Instead, it stated that resolution of the legal questions "depends on the facts, and the material facts have not been determined at this stage of the proceeding." *Id.* Among the numerous, obvious factual questions the Court identified were "which entities' cattle were supplied with Quality Plus's feed", "what happened to those cattle", what proceeds of those cattle were, are those proceeds identifiable to the milk checks and cattle sale proceeds in issue, were the cows fed Quality lien feed sold and if so, the disposition of those proceeds, whether replacement cattle were purchased, the relevance of the fact that Elmwood received no feed yet its dairy checks and livestock

liquidation proceeds were intermingled with similar sales from EFI & EFF, and the acquisition price of cattle transferred from one dairy to another or purchased from an outside source. Opinion, pages 5-6.

The Court of Appeals sensed that Quality "seems to acknowledge that some of the questions listed above remain unanswered." *Id.*, page 6. Quality's Application makes no attempt to answer these questions; instead, it baldly asserts again and again that no tracing of any sort should be required of it. The Court of Appeals recognized that the "unanswered questions referenced [in its Opinion] are not intended as an exhaustive list. They simply highlight some of the important questions not answered by this record." Opinion, page 7. In short, the Court of Appeals entered a fact-specific reversal of the District Court's summary judgment based entirely on well-established, basic standards for summary judgment.

In addition to the questions the Court of Appeals raised, Quality's asserted lien only applies to cows. App. 24-30 (Quality's UCC Financing Statement pertaining to "all cows now owned by" EFF and milk and proceeds therefrom); App. 31-51 (same as to EFI). *See* Answer, para. 51 (App. 117). Quality chose not to claim a lien interest in calves, heifers, bull calves, steers or springing heifers at EFF or EFI consuming Quality feed before the bankruptcies. Quality has never attempted to limit its claim to proceeds of

those animals in which it did claim a lien (cows as of the bankruptcy filing date at EFI or EFF). Nor has it ever attempted to identify the proceeds attributed to Elmwood, to which it supplied no feed and filed no financing statements under Iowa Code § 570A.4.

The burden of showing undisputed facts entitling the moving party to summary judgment rests with the moving party. *Swainston v. Am. Family Mut. Ins.*, 774 N.W.2d 478, 481 (Iowa 2009). The burden of proof remains with the moving party at all times. *See Interstate Power Co. v. Ins. Co. of N. Am.*, 603 N.W.2d 751, 756 (Iowa 1999). A moving party cannot shift the burden to the other party through a conclusory motion for summary judgment not supported by undisputed facts. *See id.*; *Midwest Mgmt. Corp. v. Stephens*, 291 N.W.2d 896, 900 (Iowa 1980); *Am. Tel. & Tel. Co. v. Dubuque Commc'ns Corp.*, 231 N.W.2d 12, 14–15 (Iowa 1975). To obtain a grant of summary judgment on some issue in an action, the moving party must affirmatively establish the existence of undisputed facts entitling that party to a particular result under controlling law. When the evidentiary matter tendered in support of the motion does not affirmatively establish uncontroverted facts that sustain the moving party's right to judgment, summary judgment must be denied even if no opposing evidentiary matter is presented. *Griglione v. Martin*, 525 N.W.2d 810, 813 (Iowa 1994), *overruled on other grounds by Winger v. CM*

*Holdings, L.L.C.*, 881 N.W.2d 443, 446 (Iowa 2016). Where a motion for summary judgment is not adequately supported, "[courts] need not consider the sufficiency of [the opposing party's] resistance to the motion." *Id.* Quality's loss is attributable to a simple failure of any evidence of tracing to "identifiable proceeds" at all. Instead of meeting these long-established standards, Quality only argues that such basic evidentiary proofs should be excused here, including any pesky statutes concerning identifiable proceeds, agricultural liens, or Article 9 that might otherwise lie in the way.

Nothing about the Court of Appeal's decision is in conflict with any decision of this Court, nor does Quality claim otherwise. Nothing in that decision involved a substantial question of constitutional law, nor does Quality claim otherwise. Nothing in that decision involves an important question of changing legal principles, nor does Quality claim otherwise. Quality's entire basis for promoting this Court's plenary review is that this dispute presents "an issue of broad public importance" under Iowa R. App. P. 6.1103(1)(b)(4).

Only problem is, at this stage, it doesn't.

## II. THE COURT OF APPEALS' ONLY ERROR WAS TO REMAND THIS CASE FOR FURTHER FACT DISCOVERY RATHER THAN GRANT COMPEER'S COMPETING SUMMARY JUDGMENT MOTION

Compeer agrees this far with Quality that the Court of Appeals erred. However, the error was in allowing Quality a remand rather than granting Compeer's cross-motion for summary judgment and ending this case now.

The Court of Appeals' Opinion allows Quality a theoretical second attempt, a second bite at the apple so to speak, to try to generate additional record evidence beyond its attempt in the first motion. Neither Quality nor the District Court bothered to engage in any tracing analysis whatever. Quality has little more than a scintilla of evidence that Etcher cows even ate its feed, and it has nothing in evidence beyond that.[3] The Court of Appeals should have reversed and ordered entry of judgment in favor of Compeer.

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[3] This issue is the "conjecture" Quality complains so bitterly about on page 10 and footnote 1 of its Application. The oral argument Quality is unhappy with was Compeer's counsel's remarks that it was about as plausible, under the minimalist record presented, that EFF or EFI sold feed out the backdoor as it did feed its cattle. Historically, the Etcher Entities had grown their own feed and by the time they began purchasing from Quality, the Entities were in desperate financial straits. The only evidence Quality presented that Etcher cattle consumed any of its feed was a single statement that "[t]he feed the Etcher Farms purchased would have been generally fed to all the dairy cows, calves, and heifers on the farms," a statement explicitly speculative. The statement comes from an individual who only worked as an EFF consultant for 1 month prior to the bankruptcy and who gives no indication he was even at EFF (much less EFI or Elmwood) or that he observed Quality feed deliveries being consumed by Etcher cattle. *See* App. 438-40. That's it; that

Here, Quality never requested or identified additional discovery that would be needed should either the District Court or the Court of Appeals determine that its proffer was insufficient to justify summary judgment in its favor. It never requested a continuance for further fact finding under Iowa R. Civ. P. 1.981(6). Quality could have sought and obtained additional fact discovery before filing its summary judgment motion and chose not to do so. In other words, Quality acknowledged that the record it presented was a sufficient and complete record upon which its case relied. Having failed to meet its burden of proof, Quality should not now be afforded the opportunity to conduct additional discovery, which will go nowhere and will only add unnecessary additional costs to the parties. Compeer is entitled to summary judgment simply because Quality has not and cannot show any meaningful tracing of identifiable proceeds from the feed it supplied to the milk proceeds and livestock liquidated at least 9 months after the fact. No such request for a continuance was made by Quality and the Court of Appeals allowing it to do so now is unjustified and unnecessary.

Courts recognize that, when a party moves for summary judgment, the motion implicitly concedes that there are no additional facts for the motion to

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is the entirety of Quality's evidence to show that Etcher "livestock consum[ed] the feed." The "speculation" Quality complains about is its own, the moving party for summary judgment.

be ripe for resolution one way or another. *See Thompson Building Wrecking Company, Inc, v. Augusta, Georgia*, 2007 W.L. 9711318 (S.D. Ga. 2007); *see also Almeida v. Amazon.com, Inc.*, 456 F.3d 1316, 1327 n.6 (11. Cir. 2006) (to move for cross summary judgment is to indicate that the record is sufficient to establish claims of all parties). "[C]ourts have found that the filing of a cross motion for summary judgment almost always indicates that the moving party was not prejudiced by a lack of discovery." *Thompson Building* at *2 (quoting 11 Moore's Fed. Prac. § 56.10([8][a] (3d ed. 2007)). By moving for summary judgment, a party indicates its "position that the record was sufficient to establish [its] claims." *Almeida*, 456 F.3d at 1327 n.6. As this Court succinctly put it, summary judgment is "the put up or shut up moment in a lawsuit." *Buboltz v. Birusingh*, 962 NW.2d 747, 755 (Iowa 2021) (quoting *Slaughter v. Des Moines Univ. Coll. of Osteopathic Med.*, 925 N.W.2d 793, 808 (Iowa 2019)).

While error there was, it was not error of a magnitude to trigger this Court's plenary review. The error implicates none of the criteria for further review set forth in Iowa R. App. P. 6.1103(1)(b), and Compeer did not seek further review as a result. However, the reality is that Quality has failed to show that the milk proceeds and livestock liquidation sales are identifiable

proceeds of its much earlier feed deliveries, and it is evident it will never be able to do so.

## III. THE APPLICABLE LAW GOVERNING THIS CASE IS ESTABLISHED.

Quality never mentions, much less discusses, the legal framework applicable to this case. Instead, it spends much of its Application, at a high level of generality, discussing the broad policy justifications underlying the enactment of Chapter 570A. For instance, beginning on page 15 of the Application, Quality speaks about the importance of "the statute's" legislative history, without bothering to disclose what "statute" it is until page 19, where we find it is Iowa Code § 570A.3(2). Quality's discussion of Chapter 570A is superficial and includes but one passing reference to Article 9. Application, page 9. (referencing Iowa Code § § 554.9203(6), .9315(1)(a)-(b) without discussion).

In short, Chapter 570A has three operative provisions relevant here. Section 570A.3 defines what is needed for the lien to attach (an agricultural supply dealer providing feed to a farmer) and the scope of that lien (livestock consuming the feed). Section 570A.4 defines what is necessary to perfect that lien (filing a UCC-1 retroactively for past feed deliveries up to 31 days). Section 570A.5 establishes relative priorities, in this case as between an Article 9 blanket security interest and a feed agricultural input lien.

The case law fleshes out the application of Chapter 570A. Chapter 570A is "consistent with the principle of limiting superpriority liens because they are inherently contrary to the UCC's general priority rule of first-in-time, first-in-right. [*Shulista*] noted that because these liens 'jump' the usual priority order, they are strictly construed and limited in nature." *In re Big Sky Farms*, 512 B.R. 212, 217 (Bankr. N.D. Iowa 2014) (*citing In re Shulista*, 451 B.R. 867, 878-79 (Bankr N.D. Iowa 2011)). Previously, in *Oyens Feed & Supply, Inc. v. Primebank*, 808 N.W.2d 186 (Iowa 2011) (*Oyens I*), this Court had held that a feed supplier need not comply with the notice provisions of Iowa Code § 570A.2(3) due to § 570A.5(3). *Shulista* had held that the policy preference for a "fluid feed market" notwithstanding, feed suppliers were still required to comply with Iowa Code § 570A.4. 451 B.R. at 878-79. The Iowa Supreme Court affirmed this holding in *Oyens Feed & Supply, Inc. v. Primebank*, 879 N.W.2d 853, 862 (Iowa 2016) (*Oyens II*). A lien under § 570A.3 extends not only to "livestock consuming the feed" but also to identifiable proceeds of those livestock. *In re Schley*, 509 B.R. 901, 914 (Bankr. N.D. Iowa 2014) (*Schley I*). Livestock born into a herd have no acquisition price for purposes of Section 570A.5(3). *Oyens II*, 879 N.W.2d at 865. However, calves are <u>not</u> proceeds of their cows. *Citizens State Bank v.*

*Miller*, 409 N.W.2d 7, 9 (Iowa 1994). All of this is now well-established common ground.

Yet, none of this is addressed, much less discussed, by Quality. Quality does not suggest that the Court of Appeals failed to recognize or apply any of this precedent. Quality simply wants this Court to approve the District Court's decision to skip the next step altogether, which is demonstrating that the proceeds in question are identifiable proceeds of the livestock in which Quality claims a lien. The District Court fashioned a requirement of a "reasonable link between the feed provided by the supplier and the livestock." District Court Opinion, page 9. In the District Court's eyes, Quality was entitled to summary judgment because there "is no dispute Quality Plus sold feed to Etcher Farms entities that was consumed by Etcher cattle." *Id.*, page 10. For the District Court, that was enough.

However, neither the District Court nor Quality discuss the 9- to 13-month gap from feed to sale, much less the statutory framework governing proceeds under Article 9 and its obvious applicability to Chapter 570A liens in cases such as this.[4] In *Oyens II*, this Court recognized that the "agricultural

[4] The District Court's Opinion does not cite Article 9 even once; Quality's Application contains only the one passing reference. In its Brief before the Court of Appeals, however, Quality acknowledged the proposition that a "security interest attaches to only 'identifiable proceeds of collateral' is not a controversial statement" but claims what "is controversial, however, is the

lien has one foot in Article 9 and one foot outside of it." 879 N.W.2d at 860 (quoting James J. White & Robert S. Summers, *Uniform Commercial Code,* § 21-8, at 738 (5th ed. 2000)). Thus, "although chapter 570A incorporates some provisions of chapter 554, to the extent there is a conflict between them, chapter 570A prevails…." *Id.* (holding that § 570A.4 prevails over Article 9 provisions concerning perfection). The lien attachment statute, § 570A.3, explicitly states that the "agricultural supply dealer is a secured party and the farmer is a debtor for purposes of chapter 554, article 9." Unlike attachment, perfection, and priority, nothing in chapter 570A addresses, restricts, limits, or modifies the requirements for tracing the property subject to the lien (livestock consuming the feed) to proceeds claimed. *See Schley I*, 509 B.R. at 909-10 (holding that 570A liens extend to proceeds upon the basis of § 9-315 of the Uniform Commercial Code while noting that 570A "is silent on whether agricultural liens extend to proceeds").

Article 9 provides that a security interest / agricultural lien attaches to any "identifiable proceeds" of the collateral in question. Iowa Code § 554.9315(1)(b). Where, as here, the proceeds in dispute are cash proceeds,

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method of tracing Compeer asks this Court to require." Quality Brief, pages 35-36.

they too must be "identifiable." *Id.*,(4)(b).[5] A security interest "attaches to any identifiable proceeds" only "to the extent that the secured party identifies the proceeds by a method of tracing, including the application of equitable principles, that is permitted under law other than this article with respect to comingled property of the type involved." Iowa Code § 554.9315(2)(b).

Under § 554.9315(4)(c), if the alleged proceeds are cash proceeds, and those proceeds are used to purchase additional collateral, a lien in the original collateral only continues into the newly purchased collateral for 21 days. After that time, unless the new collateral is otherwise perfected, the originally secured party becomes unperfected as to the proceeds. *See Id.*, cmt. 5 ("[A] different rule applies if the proceeds are acquired with cash proceeds, as is the case of the original collateral (inventory) is sold for cash (cash proceeds) that is used to purchase equipment (proceeds). Under these circumstances, the security interest in the equipment proceeds remains perfected only if the description in the filed financing indicates the type of property constituting the proceeds (e.g., "equipment").").

Although not definitively decided by this Court, in applying Iowa law, the Eighth Circuit predicted that Iowa courts would trace cash proceeds in a

[5] In this case, there are potentially numerous intermediate steps necessary to trace the cows consuming the Quality feed pre-bankruptcy to the cash proceeds ultimately emerging 9-13 months later.

bank account by using the 'lowest intermediate balance' rule of tracing from trust law. Under the lowest intermediate balance rule, it is assumed the traced proceeds are the last funds withdrawn from a contested account. *Meyer v. Norwest Bank Iowa, Nat'l Ass'n.*, 112 F.3d 946, 951 (8th Cir. 1997); *see also* Iowa Code § 554.9315, cmt. 3. Once the traced proceeds are withdrawn, however, they are treated as lost, even though subsequent deposits are made into the account. *Id.*; *see also* 5 Collier on Bankruptcy ¶ 541.11, at 541-70 (15th ed. 2001); *see also In re MJK Clearing, Inc.*, 286 B.R. 109 (Bankr. D. Minn. 2002). The Uniform Commercial Code does not define "identifiable proceeds." *ITT Commercial Finance Corporation v. Tech Power, Inc.*, 51 Cal. Rptr. 2d 344 (Cal.App. 1996). As such, courts use non-code law, including tracing of trust funds, to establish the requisite level of tracing required under the particular facts of the case. *Van Diest Supply Co. v. Shelby County State Bank*, 425 F.3d 437, 440 (7th Cir. 2005) (applying Illinois law). The burden of proof to establish identifiable proceeds rests with the party seeking to establish an interest in those proceeds. *Id.*

None of this appears anywhere in Quality's Application. The Application limits itself to a discussion of the broad policy interests motivating the enactment of Chapter 570A in the first instance, all to suggest that establishing "identifiable proceeds" is a brave new world that the law has

never before explored. The only way to do this, and the way Quality takes, is to ignore Article 9 entirely. The identifiable proceeds tracing requirement of § 9-315 is not "unfathomably complex" nor does it require a "retracing of each kernel of feed to each cow at the trough." Application, page 9. It does require, however, that the feed supplied by Quality be shown to have been consumed by the livestock in question (here, cows at EFI and EFF in the months leading up to March 18, 2018), and that those cows generated proceeds and that those proceeds are traceable directly to the cows that generated milk 9- to 13-months later or to the livestock that were marketed through April 2019. This months' long gap is the largest of the many problems bedeviling Quality's case; it simply has no evidence of identifiable proceeds and Quality knows it.

## IV. THE COURT OF APPEALS DID NOT ERR IN VACATING THE DISTRICT COURT'S DISMISSAL OF COMPEER'S COUNTERCLAIMS AND AFFIRMATIVE DEFENSES.

Oddly, Quality spends the last 3 pages of its Application criticizing the Court of Appeals for preserving Compeer's rights on remand concerning fact-specific issues that have no relevance beyond the idiosyncrasies of this case. Quality's analysis on the merits is wanting, but as relevant here, none of those issues remotely trigger the thresholds for this Court's review under Rule 6.1103(1)(b).

Quality starts by claiming its lien is $348,306.30 which according to it "is indisputably the retail cost of the feed, before any finance charges, fees, interest or other applicable amounts, and after applying partial payments to the principal debt in the manner most favorable to Compeer." Application, at page 23. Quality's continued insistence on this point is bizarre. It knows that the total retail price for feed delivered within the time limitations of 570A.4 is at most $322,989.46. This is the amount it submitted to the Bankruptcy Court in its sworn proofs of claim. *See* APP782-APP785 (EFI); APP808 – APP811 (EFF)). The difference arises because the balance Quality now claims consists of feed deliveries on July 28; August 11; and August 24, 2017; all before the 31-day look back from the filing date of Quality's first financing statement on October 5, 2017. APP171; *see* Iowa Code § 570A.4. This is all quite clear, but Quality persists in raising its claim again and again without ever explaining how the balance can be included as a perfected agricultural input lien under 570A.4.

Quality goes on to take issue with the deductibility of adequate protection payments it received and the relevance of its attempts to perfect its lien after the bankruptcy petition (and automatic stay) were filed. Suffice to say that these issues are live and disputed by Compeer, but none of them merit this Court's review. The Court of Appeals was quite correct to hold that if

remand there be, the case should include a proper review of these issues in the District Court.

## CONCLUSION

For all the reasons set forth herein, Compeer respectfully submits that the Court of Appeals' fact-specific determination that Quality's proffer in support of its motion for summary judgment was woefully inadequate is correct, and in any event, not worthy of this Court's further consideration at this time.

Dated: May 24, 2022

Respectfully submitted,

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## CERTIFICATE OF FILING AND SERVICE

The undersigned hereby certifies that on May 24, 2022, I caused the foregoing Appellant's Resistance to Amended Application for Further Review of the Iowa Court of Appeals Filed April 27, 2022 to be filed with the Iowa Supreme Court Clerk using the Electronic Document Management System (EDMS) which will send notification of such filing to the attorneys(s) of record who are registered with EDMS.

Dated: May 24, 2022

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## CERTIFICATE OF COMPLIANCE

The undersigned certifies:

1. This brief complies with the type-volume limitation of Iowa R. App. P. 6.903(1)(g)(1) because this brief contains 4,471 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 Office Word 365 in 14 pt. Times New Roman.

Dated: May 24, 2022

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