ELECTRONICALLY FILED MAR 16, 2023 CLERK OF SUPREME COURT

IN THE SUPREME COURT OF IOWA

SUPREME COURT NO. 22-1257

MARY KATHRYN C. WALLACE,

Petitioner-Appellant,

vs.

KRISTIN W. WILDENSEE and MARY KATHRYN C. WALLACE,

As Executors of the Estate of Douglas Ayer Wallace,

Respondent-Appellee.

APPEAL FROM IOWA DISTRICT COURT FOR JOHNSON COUNTY

Johnson County No. DRCV083264

HONORABLE PAUL MILLER

SIXTH JUDICIAL DISTRICT OF IOWA

APPELLANT'S REPLY BRIEF

Constance Peschang Stannard ATAT0007605

Johnston, Stannard, Klesner, Burbidge & Fitzgerald, PLC

373 Scott Court, Suite B

Iowa City, IA 52240

319-354-1712 FAX 319-354-7265

cstannard@iclawfirm.com

ATTORNEY FOR APPELLANT

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

State Statutes:

STATEMENT OF THE ISSUES PRESENTED FOR REVIEW

I. IOWA CODE SECTIONS 597.3 AND 597.4, AS PART OF IOWA DOMESTIC RELATIONS LAW CHAPTER 597, GRANT THE DISTRICT COURT AUTHROITY TO ENTER A QDRO

Iowa Code § 597.4

Iowa Code Chapter 597

Iowa Code §597.1

Iowa Code Chapter 4

Iowa Code § 4.1

Iowa Code § 4.2

Acuff v. Schmit, 78 N.W.2d 480, 248 Iowa 272 (Iowa 1956)

Heacock v. Heacock 108 Iowa 540, 79 N.W. 353 (1899)

Iowa Code § 597.3

Iowa Code § 597.4

Matter of Estate of Wulf, 471 NW2d 850 (Iowa 1991)

Iowa Code § 597.3

Matter of Est. of Wulf, 471 N.W.2d 850 (Iowa 1991)

Iowa Code 597.18

Matter of Tollefsrud's Estate, 275 NW2d 412 (Iowa 1979)

Iowa Constitution Art. I

Molitor v. City of Cedar Rapids, 360NW2d 568 (Iowa 1985)

Iowa Code 602.1

29 U.S.C. § 1056(d)(3)

Nichols V. Fierce, 212 NW2d 151 (Iowa 1927)

I.R.Civ.P. 1.1101, 1102, 1103, 1106

II. THE DISTRICT COURT DID NOT RULE THAT THE INTERSPOUSAL AGREEMENT LACKED CONSIDERATION OR THAT IT WAS NOT ENFORCEABLE

Iowa Code Chapter 597

Atlas Coal Co. v. Jones, 245 Iowa 506, 31 NW2d 663 Iowa 1953)

Margeson v. Artis, 776 NW2d 652 (Iowa 2009)

III. TREATING THE AGREEMNT OF A MARRIED COUPLE DIFFERENTLY FROM AGREEMENTS BY DIVORCING OR SEPARATING MARRIED COUPLES REGARDING THEIR RECOURSE UNDER THE FEDERAL LAW AUTHORIZING CONVEYANCE OF PENSION RIGHTS VIOLATES EQUAL PROTECTION

29 U.S.C. § 1056

Varnum v. Brien, 763 NW2d 862 (Iowa 2009)

Iowa Code Chapter 597

Iowa Code Chapter 59

IV. THE COURT'S DENIAL OF THE QDRO UNDER CHAPTER 597 VIOLATES IOWA'S PUBLIC POLICY IN SUPPORT OF MARRIAGE

Clark v. Iowa Dep't of Hum. Servs., 555 N.W.2d 472 (Iowa 1996)

Iowa Code §598.5

Norris v. Norris 174 NW2d 368 (Iowa 1970)

Iowa Code Chapter 597

V. THE ENFORCEMENT OF AN INTERSPOUSAL AGREEMENT DOES NOT VIOLATE PUBLIC POLICY

STATEMENT RE: ERROR PRESERVATION AND SCOPE AND STANDARD OF REVIEW, APPENDIX

The undersigned Attorney for Petitioners filed a Brief in this matter pursuant to the Rules of Appellate Procedure. Consistent with the Rules, the undersigned addressed how each issue was preserved for appellate review and a statement addressing the scope and standard of appellate review. I.R.App.P. 6.903(2)(g)(1) and (2). No objection has been made to these statements and the undersigned asserts that they have been waived in this case and stand affirmed.

There was no brief filed on behalf of the Respondent, and the Amicus Curiae did not designate any additions, so the Appendix filed with the Final Brief is the same as that filed in October with the Proof Brief.

ARGUMENT

I. IOWA CODE SECTIONS 597.3 AND 597.4, AS PART OF IOWA DOMESTIC RELATIONS LAW CHAPTER 597, GRANT THE DISTRICT COURT AUTHROITY TO ENTER A QDRO

The validity and enforceability of the interspousal agreement does not rest on §597.4 alone but on the whole of Chapter 597 outlining the rights of spouses to own and dispose of property separately during marriage. The Amicus claims that "The statute, however, relates to real property, not personal property." (Brief, p. 9) However, Chapter 597 is not restricted to determining real property rights. §597.1 specifically refers to both real and personal property in plain language: "A married woman may own in her own right, real *and personal* property…" (emphasis added) The Amicus cites various dictionaries and common law and history to support this misconstruction of Chapter 597. But, in fact, in construing and interpreting statues, Iowa has an entire Code chapter devoted to the endeavor, Iowa Code Chapter 4. §4.1 states: "21. *Personal property*. The words "personal property" include money, goods, chattels, evidences of debt, and things in action." Further on, at subsection 24, the rule reads: "The word "property" includes personal and real property." The legislature made it very clear that Iowa statutes

are to be given liberal interpretation rather than restrictive or narrow interpretations:

> **4.2 Common law rule of construction.**
>
> The rule of the common law, that statutes in derogation thereof are to be strictly construed, has no application to this Code. Its provisions and all proceedings under it shall be liberally construed with a view to promote its objects and assist the parties in obtaining justice.
>
> Iowa Code 2023, Chapter 4

This is what Mary Katherine requested of the District Court, to give Chapter 597 the liberal construction necessary to promote the objects of the Husband and Wife domestic relations code sections and to assist her in obtaining justice.

Amicus goes to great lengths to analyze the history regarding the enactment of Chapter 597. Mary Katherine agrees, this was the original intent 150 years ago. We further agree that Acuff v. Schmit, 78 NW2d 480 (Iowa 1956) is instructive here, but the Amicus has failed to consider the whole case. In *Acuff*, the Supreme Court did say that the intention of the legislature in enacting Chapter 597 in 1873 was to remove the common law restriction of coverture, but the court did not stop there. The court went on to cite several laws that made women

equal in the eyes of the law, and stated that such laws were entitled to liberal construction. Id. at 484-85. The court went on to find the right of a consortium claim by a woman was entitled to recognition under law, using the following language:

> While we recognize the almost total lack of precedent for allowing appellant's cause of action, we deem precedent to be worthy of support only when it can stand the scrutiny of logic and sound reasoning in the light of present day standards and ideals.
>
> Acuff v. Schmit, 78 NW2d 480, 485 (Iowa 1956)

Amicus cites Heacock v. Heacock 108 Iowa 540, 79 N.W. 353, 354–55 (1899) as authority, but it is also not helpful to support the district court's ruling. Amicus completely misconstrues the holding of *Heacock* and *Peters*. The Court very clearly ONLY construed the statute as prohibiting a spouse to sue in tort; it clearly preserved her right to pursue property rights, as in the present case.

> In construing these sections, Judge Day, speaking for the court in the *Peters* Case, supra, said: "Whilst it must be admitted that very radical changes have been made in the relation of husband and wife, still it seems to us that these changes do not yet reach the extent of allowing either husband or wife to sue the other for a personal injury committed during coverture. * * * It is evident that section 2211 refers to and authorizes actions against parties other than the husband; for, if this section allows an action generally against the husband, it covers and embraces more than is included in section 2204, and that section is rendered useless and meaningless. Whatever right of action exists against the

> husband must therefore be found in section 2204. This section is limited to actions for property, or rights growing out of the same." The holding in that case has never been questioned, and it seems to us it firmly establishes the doctrine that the wife has no right of action against her husband, unless it be for the preservation or protection of her separate property. See, as further sustaining these conclusions, *Chestnut v. Chestnut*, 77 Ill. 346; *Jenne v. Marble*, 37 Mich. 319; *Pittman v. Pittman*, 4 Or. 298. Then, if she has no right to sue,—no remedy,—she has no right. *Broom, Leg. Max.* (8th Ed.) p. 191, and cases cited; *Ashby v. White*, 2 Ld. Raym. 953; *Howe v. Wildes*, 34 Me. 566; *People v. Dikeman*, 7 How. Prac. 130. As she has no remedy against her husband, unless it be for the infraction of some of her property rights, she cannot sue him on his personal contract."
>
> Heacock v. Heacock, 108 Iowa 540, 79 N.W. 353, 354–55 (1899)

Amicus's brief fixates on only §§597.3 and .4, but Mary Katherine has relied on the statute as a whole to advance her cause. The contract she entered into as a spouse is specifically authorized under §597.2 and *Wulf*.

> We have narrowly interpreted section 597.2, however, not to limit all transactions between husband and wife, but to shield one spouse's dower interest from exploitation by the other. *Young v. Young–Wishard*, 227 Iowa 431, 436, 288 N.W. 420, 423 (1939); *Garner v. Fry*, 104 Iowa 515, 518–19, 73 N.W. 1079, 1080 (1898).
>
> Matter of Est. of Wulf, 471 N.W.2d 850, 853 (Iowa 1991)

Additionally, §597.18 says "Contracts may be made by a married person and liabilities incurred, and the same enforced by or against the person, to the same extent and in the same manner as if the person were

unmarried."

Amicus's reliance on *Matter of Tollefsrud's Estate* is wholly misplaced when arguing that §597.4 concerns real property only. By their own admission, that case involved a promissory note, not ownership of real property, and the court specifically found that the note should be treated like any other commercial note, in spite of the fact that it was a contract between spouses. Matter of Tollefsrud's Estate, 275 NW2d 412, 418 (Iowa 1979). §597.4 does not by its terms exclusively relate to real estate. Case law has also recognized bank deposits as property under this provision; see, e.g. Huffman v. Beamer, 179 N.W. 543, 191 Iowa 893 (Iowa 1920)

However, the Amicus then admits that "though not overturned, the [various cases from 19th century pertaining to the scope of 597.4 cited by the amicus] have questionable application in 2023," and goes on to say "Today, the law of Iowa cannot recognize coverture or the so-called oneness of spouses as binding Iowa law. See, Iowa Constitution Art.I Sec. 1 and Art. I Sec. 6. See also Acuff v. Schmit, 78 NW2e 480,485 (Iowa 1956).

The reliance on the case of Molitor v. City of Cedar Rapids, 360

NW2d 568 (Iowa 1985) to claim lack of jurisdiction is likewise misplaced. *Molitor* involved an appeal from an adverse ruling of a municipal housing board to the District Court. There is no statutory authority for an appeal from a municipal authority to a state court.

> " Jurisdiction of a case is given to a court solely by law. See *O'Kelley v. Lochner*, 259 Iowa 710, 715, 145 N.W.2d 626, 629 (1966). The Constitution of Iowa expressly provides that the district court shall have jurisdiction "in such manner as shall be prescribed by law." Iowa Const. art. V, § 6."
>
> Molitor v. City of Cedar Rapids, 360 N.W.2d 568, 569 (Iowa 1985)

Mary Katherine agrees that jurisdiction is based on law. Petitioner asserts that the court does have jurisdiction conferred upon it by Iowa Code Chapter 597. "Code section 602.1 provides that the district court "shall have exclusive, general and original jurisdiction of all actions, proceedings, and remedies, civil, criminal, probate, and juvenile…" The parties sought to enforce a contract created under Iowa Code Chapter 597, which requires a QDRO be ordered pursuant to Iowa's Domestic Relations law by the provisions of the Federal ERISA statute. The interspousal agreement is enforceable under §597.3, as authorized under §597.2 and Code §602.1.

Under the signed interspousal agreement, Mary Katherine is

already the equitable owner of Doug's 401(k) plan account. §597.3 authorizes her to recover property belonging to her that is in the possession or control of her spouse. That is what she sought to do by requesting the entry of a QDRO, which is not only authorized by Federal Law, but the only way that interest can be conveyed, through the use of State Court Domestic Relations law. 29 U.S.C. §1056(d)(3)(A) and 1056(d)(3)(B)(i).

Amicus argues that the District Court correctly found that because the parties were not in disagreement, "there was no case in controversy." (Brief, p. 13) They claim that because neither party was trying to evade the contract or refuse to enforce it, that the court was correct to rule that the parties did not require the court to enforce the agreement. (Brief, p. 13) This is factually inaccurate, as Federal Law, supra, requires the entry of a QDRO to enforce an agreement for a spouse to *transfer* pension rights. The case of Nichols v. Fierce, 212 NW2d 151 (Iowa 1927) does not support their assertion and is irrelevant to the case at bar. That case is a fence line case where the board of township trustees, acting as fence viewers, at the oral request of the parties, came out and viewed the property owners' fences and

determined their rights. It was then appealed, and the court dismissed it. The Court found that no one had followed proper procedures to bring the case to the fence viewers in the first place, because neither party had made any written request of the other as required by the Code as a prerequisite to pursuing the matter in court. Nichols v. Fierce, 202 Iowa 1358, 212 N.W. 151, 151 (1927) The holding of that case does not apply here.

Iowa Rule of Civil Procedure 1.1101 authorizes Declaratory Judgments.

> Courts of record within their respective jurisdictions shall declare rights, status, and other legal relations whether or not further relief is or could be claimed.
>
> Iowa R. Civ. P. 1.1101
>
> Any person interested in an oral or written contract, or a will, or whose rights, status or other legal relations are affected by any statute, municipal ordinance, rule, regulation, contract or franchise, may have any question of the construction or validity thereof or arising thereunder determined, and obtain a declaration of rights, status or legal relations thereunder.
>
> Iowa R. Civ. P. 1.1102
>
> A contract may be construed either before or after a breach.
>
> Iowa R. Civ. P. 1.1103
>
> Supplemental relief based on a declaratory judgment may be granted wherever necessary or proper. The application for relief shall be by petition in the original case. If the court deems the

> petition sufficient, it shall, on such reasonable notice as it prescribes, require any adverse party whose rights have been adjudicated to show cause why such relief should not be granted.
>
> Iowa R. Civ. P. 1.1106

So, in addition to the statutory authority, there are specific rules of Civil Procedure applicable to this case. Mary Katherine asked the court to construe and enforce her contract, without alleging breach, and sought the necessary and proper auxiliary remedy (QDRO).

II. THE DISTRICT COURT DID NOT RULE THAT THE INTERSPOUSAL AGREEMENT LACKED CONSIDERATION OR THAT IT WAS NOT ENFORCEABLE

Amicus alleges that the law of Iowa is clear that for a contract to be enforceable there must be consideration. (Brief, p. 15) They allege that the district court found that the contract lacked consideration. However, that was not the basis for the court's denial. (Appx. 24-25) The court's finding was that "there is no case or controversy…and that Iowa Code Chapter 597 does not grant jurisdiction to approve an estate plan such as this." (Apx. 25) Lack of consideration was not cited by the Court as the basis for its decision initially or as reconsidered on June 29, 2022. (Apx.35).

Without agreeing that consideration is at issue, Mary Katherine

nonetheless points out that consideration for the interspousal agreement is presumed to be sufficient pursuant to 537A.2 and 537A.3 (Apx. 11-12) The case of *Atlas Coal* relied on by Amicus concerns the dealings between corporations and their officers and directors. Atlas Coal Co. v. Jones, 245 Iowa 506, 514, 61 N.W.2d 663, 667 (1953) This case has no bearing here, and does not stand for the proposition advanced by the Amicus. To state that since the value of the pension was presumed to be in excess of $15,000, therefore the recitation of $10 as consideration in the contract "cannot be deemed adequate consideration" is without foundation. (Brief, p. 16) That argument is easily remedied by conducting an in-court review of the contract. See, Margeson v. Artis, 776 N.W.2d 652, 656 (Iowa 2009):

> Generally, we presume a written and signed agreement is supported by consideration. *Meincke v. Nw. Bank & Trust Co.*, 756 N.W.2d 223, 227–28 (Iowa 2008), Thus, a party asserting a lack-of-consideration defense has the burden to establish the defense. *Id.* We look for consideration from the language in the contract and by "what the parties contemplated at the time the instrument was executed." *Id.* (citing *Hubbard Milling Co. v. Citizens State Bank*, 385 N.W.2d 255, 259 (Iowa 1986)).

Neither party here alleged a lack of consideration. And an in court hearing was conducted. This entire argument is a red herring.

III. TREATING THE AGREEMNT OF A MARRIED COUPLE DIFFERENTLY FROM AGREEMENTS BY DIVORCING OR SEPARATING MARRIED COUPLES REGARDING THEIR RECOURSE UNDER THE FEDERAL LAW AUTHORIZING CONVEYANCE OF PENSION RIGHTS VIOLATES EQUAL PROTECTION

Unmarried couples are not entitled to a QDRO as the remedy is only available to spouses and former spouses.

> (ii) the term "domestic relations order" means any judgment, decree, or order (including approval of a property settlement agreement) which—
>
> > (i) relates to the provision of child support, alimony payments, or marital property rights to a spouse, former spouse, child, or other dependent of a participant, and
> > (ii) is made pursuant to a State domestic relations law (including a community property law).

29 U.S.C.A. § 1056(d)(3)(B)

But Federal law allows both married and divorcing couples QDROs. Married couples who choose not to divorce cannot be denied a QDRO when there is a statute that allows married parties to have their cases heard on contracts and conveyances under Chapter 597. Amicus correctly cites to the case of Varnum v. Brien, 763 NW2d 862 (Iowa 2009) to determine whether the groups to be compared are "similarly situated." (Brief, p. 18) The narrow threshold test of *Varnum* is met here because the married parties (one of whom has a pension plan

covered by ERISA) in this case are indeed similarly situated to married persons seeking to transfer a pension plan pursuant after a divorce or legal separation – the only difference is that the parties in the instant case, who are married to each other, are not seeking a divorce or legal separation.

The Amicus's statement that "An Interspousal Contract, even if made under Iowa Code Section 597, does not by definition require a court's action" is simply wrong as applied here. The contract to transfer pension rights absolutely requires court intervention by Federal Law. Both married couples requesting relief under Chapter 597 to enforce an interspousal contract, and those under Chapter 598 seeking to enforce a stipulation for divorce or legal separation, require a state court to enter a QDRO pursuant to Iowa's domestic relations laws in order to enforce their agreements. Thus, despite the claim of the Amicus, the couples are similarly situated with respect to the remedy they seek. The ability of spouses to contract under state domestic relations law with the enforcement mechanism of a Qualified Domestic Relations Order (QDRO) under federal law must be equally available under Iowa Chapters 597 and 598.

IV. THE COURT'S DENIAL OF THE QDRO UNDER CHAPTER 597 VIOLATES IOWA'S PUBLIC POLICY IN SUPPORT OF MARRIAGE

The Amicus claims on page 20 of the Brief that "the correct way" to obtain a QDRO is illustrated by the case of Clark v. Dept. of Human Services, 555 NW2d 472 (Iowa 1996). In that case the wife filed a Petition for Separate Maintenance and successfully got the court to transfer his pension rights to her by way of a QDRO. (Brief, p. 20-21) They claim that Mary Katherine could have done the same and "continued to have the close loving relationship with her husband that she desired". (Brief, p. 21)

All of counsel's arguments support Mary Katherine's arguments. They state that "the parties imply that the only way to effectuate their agreement under ERISA…was to have a court issue a QDRO." We do not imply, we state unequivocally that this is the only way. The *Clark* case does not weaken the argument. It shows that seeking a separate maintenance Decree is one viable way to obtain a QDRO. However, that ignores the fact that in this case, the parties would have to commit perjury in their request for such a Decree, and would be perpetrating a

fraud on the court in order to obtain the result they are entitled to under Federal Law.

Using Chapter 598 for a divorce or separate maintenance requires under §598.5 that the parties "f. Allege that the petition has been filed in good faith and for the purposes set forth therein", and "g. Allege that there has been a breakdown of the marriage relationship to the extent that the legitimate objects of matrimony have been destroyed and there remains no reasonable likelihood that the marriage can be preserved." The Petitioner must further verify these statements and thereafter "The allegations of the petition shall be established by competent evidence." A couple who wants to continue to honor their lifetime commitment to one another cannot be told their only solution to enforce their interspousal financial contract is to repudiate their marriage contract in its entirety! That cannot, and must not, be the public policy of this state.

Public policy in Iowa supports marriage as "the state's interest in preserving the marriage relationship makes any provision which provides for, facilitates or tends to induce a separation or divorce of the parties after marriage contrary to public policy and void…. Public policy

has declared that certain obligations attach to a marriage contract including the duty of the husband to support his wife." Norris v. Norris, 174 N.W.2d 368, 370 (Iowa 1970) To suggest that in order to amicably transfer marital property a couple must either fraudulently seek a legal separation or get divorced clearly violates public policy. A liberal interpretation of Iowa Chapter 597 allows, and indeed requires, the court to treat happily married parties equally with unhappily married parties in transferring the one asset controlled by Federal laws and regulations by recognizing the validity of an interspousal agreement and issuing a Qualified Domestic Relations Order to effectuate that transfer.

V. THE ENFORCEMENT OF AN INTERSPOUSAL AGREEMENT DOES NOT VIOLATE PUBLIC POLICY

Amicus claims that public policy supports careful consideration of any interspousal agreement before enforcing it. They do not specify what public policy this is. What they do do, is list a series of Iowa laws that are already in place for the very purpose of scrutinizing improper interspousal actions. They state baldly that "Courts should be skeptical of these kinds of agreements to ensure that they are not for the purpose of financial exploitation." They actually agree that in this case Mary

Katherine is acting appropriately. (Brief, p. 22) But they go on to say that in other cases there may be other motivations. Laws already exist to protect parties from such bad actors. Further, in this case, the parties held a hearing in court to address these very issues. Counsel states on page 23 that "Courts must consider Interspousal Agreements when brought before them." This is exactly what the parties did, and what they are asking this court to approve.

The Amicus brief acknowledges that courts regularly review interspousal agreements in the context of divorce cases, and state that "when other types of Interspousal Agreements are brought to District Courts they should be scrutinized to allow each party to make arguments as to why they should not be enforced." We wholeheartedly agree. And that was done in this case, a hearing was held in open court. But the Court rejected it, not on fairness grounds, but on jurisdictional grounds.

CONCLUSION

The district court had the statutory authority and the obligation to enter a QDRO in this matter, and the court is further obligated to do so to provide equal protection as required under the US and Iowa

Constitutions, and as a matter of public policy favoring marriage. Petitioner urges the Appellate Court to reverse the Trial Court decision and to remand the case for the entry of the QDRO as requested by the parties.

/s/ Constance Peschang Stannard
Johnston, Stannard, Klesner, Burbidge & Fitzgerald, PLC
Constance Peschang Stannard ATAT 7605
373 Scott Ct., Ste. B, P.O. Box 3400
Iowa City, Iowa 52244-3400
(319) 354-1712 (319) 354-7265 fax

cstannard@iclawfirm.com

ATTORNEY FOR APPELLANT

CERTIFICATE OF FILING AND PROOF OF SERVICE

I certify that on March 16, 2023, I electronically filed the foregoing proof brief with the Clerk of the Supreme Court of Iowa using the Electronic Data Management System (EDMS). Participants in the case who are registered EDMS users will be served by the EDMS system.

/s/ Constance Peschang Stannard
Johnston, Stannard, Klesner, Burbidge & Fitzgerald, PLC
Constance Peschang Stannard ATAT 7605
373 Scott Ct., Ste. B, P.O. Box 3400
Iowa City, Iowa 52244-3400
(319) 354-1712 (319) 354-7265 fax

cstannard@iclawfirm.com

ATTORNEY FOR APPELLANT

CERTIFICATE OF COST

The undersigned certifies that the actual cost of printing the foregoing Appellant's Brief was $0.00.

/s/Constance Peschang Stannard
Constance Peschang Stannard
Johnston, Stannard, Klesner, Burbidge & Fitzgerald, PLC
373 Scott Ct., Suite B
Iowa City, IA 52240

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

This brief complies with the type-volume limitation of Iowa R. App. P. 6.903(1)(g)(1) or (2) because this brief contains 3,651 words, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(g)(1).

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 in Century Schoolbook 14.

__March 16, 2023____
Date

/s/ Constance Peschang Stannard
Constance Peschang Stannard
Johnston, Stannard, Klesner, Burbidge & Fitzgerald, PLC
373 Scott Ct., Suite B
Iowa City, IA 52240