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IN THE SUPREME COURT OF IOWA

Supreme Court No. 23-1845
Delaware County Case No. EQCV008882

MARK FINK and STACEY FINK,

Plaintiffs-Appellees,

v.

DONALD LAWSON and LINDA LAWSON,

Defendants-Appellants.

APPEAL FROM THE IOWA DISTRICT COURT FOR DELAWARE COUNTY
THE HONORABLE MARGARET L. LINGREEN

APPELLANTS' REPLY BRIEF

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REPLY TO FINKS' FACTUAL ASSERTIONS

Throughout their Brief, the Finks repeatedly attempt to mislead this Court into believing the Lawsons' historical use of the pre-existing path to the Maquoketa River was based upon some sort of extracontractual "permission" granted to them by the Beckers. (Finks' Brief at pp. 8, 12 – 13, 25 – 27). This is simply not so. Instead, the Lawsons' authority to use the pre-existing path in question flowed solely from the written easement agreement provided to them by the Beckers, along with the Beckers' pre-sale representations concerning the location of the Lawsons' "easement to the lake." ([D0355], Judgment Decree dated 09/26/2023, Findings of Fact at p. 1). The Lawsons' testimony concerning their "permission" to use this path relates solely to this pre-sale discussion with the Beckers concerning the location of the Lawsons' "easement to the lake." *Id.* To the extent the Finks attempt to mislead this Court into believing otherwise, such efforts are blatantly disingenuous, particularly when viewed against the backdrop of the trial court's findings of fact, which contain no evidence of any "special" extracontractual permission other than that flowing from the written easement agreement and the Beckers' pre-sale representations to the Lawsons concerning the location of the easement to be granted with their purchase of the property. This Court should reject the Finks' misguided efforts to portray the facts differently from those set forth by the trial court in its post-trial ruling. *Id.*

Next, the Finks' brief repeatedly attempts to diminish the significance of the easement path at issue by referring to it as a mere "footpath." (Finks' Appellate Brief, *passim*). However, the evidence adduced at trial demonstrates the easement path utilized by the Lawsons was hard-packed, well-worn, readily identifiable, and demonstrated features consistent with sustained usage by vehicles:

([D0295], Plaintiffs' Exhibit III-13). Indeed, the written easement agreement itself granted to the Lawsons by the Beckers specifically authorized the Lawsons' access to the Maquoketa river by vehicle. ([D0286], Defendants' Exhibit A). The Finks' misguided effort to convince this Court that a mere "footpath" is involved here is

apparently intended to distract the Court from the undeniable truth that the incorrect legal description contained in the written easement agreement represents an easement path which cannot be traversed by vehicle. ([D0355], Judgment Decree dated 09/26/2023, Findings of Fact at ¶ 8, p. 5).

Because the Lawsons, their expert land surveyor, (and indeed, the Finks' own land surveyor) testified the easement's location identified in the incorrect legal description would make access to the Maquoketa River by vehicle **impossible**, the Finks' desperately seek to portray the pre-existing easement path to this Court as a mere "footpath." *Id.* (*see also,* Exhibit XY-1, Flash Drive Containing Video Deposition Designations/Videotaped Trial Testimony of Witness Randall Rattenborg; Trial Testimony of Land Surveyor Expert Adam Recker, Transcript pp. 443 – 457; Trial Testimony of Witness Linda Lawson, Transcript at pp. 73 - 76). This Court should reject the Finks' misleading "footpath" portrayal of the pre-existing path used by the Lawsons to access the Maquoketa River by vehicle, as the Beckers authorized them to do when granting them the written easement with the purchase of their home. ([D0286], Defendants' Exhibit A).

REPLY ARGUMENT

I. The Trial Court Erred in Refusing to Recognize and Reform the Lawsons' Express Recorded Easement When Granting the Finks' Motion for Partial Summary Judgment.

A. Reply to Finks' Preservation of Error Argument

In their Brief, the Finks claim the Lawsons failed to preserve error in their request for reformation of the Easement Agreement at issue in this case. (Finks' Brief at p. 14). This is not so. The issue of reformation was raised before the district court on summary judgment. ([D0078], Defendants' Response to Plaintiffs' Supplemental Memorandum of Authorities at pp. 2, 5; *see also,* Transcript of Summary Judgment Proceedings, March 7, 2023 at pp. 21 – 66). The district court duly considered the reformation issues raised by the parties and ruled upon them accordingly. ([D0083], Ruling on Motion for Summary Judgment 05/08/2023 at ¶ 7, p. 4 and at ¶ 13 pp. 8 – 9). Following the district court's issuance of its summary judgment ruling, the Lawsons further preserved error by filing a timely motion to amend and enlarge the court's ruling on the reformation issue. ([D0084], Motion to Amend and Enlarge Ruling on Finks' Motion for Partial Summary Judgment 05/23/2023). The district court overruled the Lawsons' motion to amend and enlarge its prior ruling on the reformation issue. ([D0087], Ruling on Lawsons' Motion to Amend and Enlarge 06/29/2023 at p. 3). This issue

was further preserved for appellate review during closing arguments at the conclusion of the parties' trial. (Trial Transcript at pp. 525, 537).

B. Reply to Finks' Standard and Scope of Review Statement

The parties seem to agree *de novo* review is appropriate here. However, there is disagreement as to whether the district court was obligated to view the facts in the light most favorable to the non-moving party during the summary judgment phase of the case. The Finks contend the Lawsons should somehow be deprived of these inferences in their favor, but in doing so, they fail to recognize the district court repeatedly declined the Lawsons' invitations "to set aside or modify its previously filed summary judgment motion ruling of May 8, 2023." Thus, because the district court declined to alter its prior summary judgment rulings, the traditional summary judgment standard must apply (i.e., at the summary judgment phase of the case, the facts should have been viewed by the district court in the light most favorable to the non-moving party).

C. Reply Argument

In their Brief, the Finks contend reformation of the easement agreement at issue in this case would require a "quantum leap in the law of reformation." (Finks' Brief at p. 17). This is not so. In fact, examples abound of situations where written instruments have been properly reformed to express the true intent of the agreement when parties are incorrectly referenced, omitted altogether, and/or

when defective signatures are later found to exist. For example, in the case of *Snide v. Johnson*, a husband's will was properly reformed to reflect his (and not his wife's) signature where a husband and wife executed their wills together and inadvertently signed the other's documents. *Matter of Snide v. Johnson*, 418 N.E.2d 656 (N.Y. Ct. App. 1981). The circumstances involved in the *Snide* case are analogous to the situation involved here; where a wife (Mary Becker) inadvertently signed an easement agreement as trustee of her own trust instead of as trustee of her husband's mirror-image trust:

> 4. This easement shall run with the land and shall be binding on the parties hereto, their heirs, successors and assigns.
>
> Dated this 11-15-02 day of November, 2002.
>
> Mary L Becker as trustee of the Mary L Becker Trust
>
> Mary L. Becker as Trustee of the Mary L. Becker Trust dated September 29, 1998
>
> Donald J. Lawson
>
> Linda Lawson

([D0286], Defendants' Exhibit A). Indeed, the trial testimony of the Beckers' estate planning attorney succinctly described the "mirror image" nature of the Beckers' revocable trust agreements granting authority to one another to sell and dispose of real estate owned by the other's trust without the other's knowledge or consent. (Trial Testimony of Witness Mark Conway, Transcript pp. 307 – 325).

Additionally, the drafter of the Easement Agreement, attorney E. Michael Carr, confirmed his office's role in incorrectly referencing Mary's trust in the Easement Agreement instead of properly referencing Larry's trust. (Trial Testimony of E. Michael Carr at p. 296 – 304; *see also,* Affidavit of E. Michael Carr in Support of Lawsons' Resistance to Finks' Motion for Summary Judgment [D0078, Attachment #2]).

Other examples abound. Take, for example, the case of *Smith v. Cram*, 230 P. 812 (Oregon Sup. Ct. 1924). In that case, a father and son mortgaged certain real property. *Id.* The son not only owned a portion of the property individually, but he also held half of it in trust for other family members. *Id.* Both signed the mortgage, but the son technically failed to sign the document in his capacity as trustee. *Id.* Although the son, as trustee, resisted reformation of the mortgage, the court determined reformation was appropriate because it concluded beyond a doubt that the intention of the parties was to mortgage the entire estate, including the trust estate. *Id.* In so holding, the court held: "The reformation prayed for to the extent of adding the name of James Cram, Jr., as trustee, to the mortgage was one which a court of equity has power to make." *Id.* (emphasis added). This Court is likewise empowered to add the name of Mary Becker, as Trustee of the Larry Becker Trust to the Easement Agreement she signed and presented to the Lawsons upon their purchase of the property. *Midstates Bank, N.A. v. LBR Enterprises, LLC*, 964

N.W.2d 555 (Iowa Ct. App. 2021) (reforming deed to reflect true intent of the parties to real estate transaction where scrivener's error failed to reflect the parties' true intentions in connection with the expression of the agreement).

Another example can be found in *Ames v. Fallert,* where a deed was properly reformed based upon "overwhelming evidence" that a grantee intended to convey certain property to his business corporation notwithstanding that his signature on the deed was missing altogether. *Ames v. Fallert*, 657 P.2d 224 (Or. Ct. App. 1983). In *Ames*, the deed at issue was notarized, but not signed by the plaintiff. *Id.* at 417. In finding "overwhelming evidence" of the plaintiff's intention to sign the deed and convey the property, the Oregon Court of Appeals found it compelling that the plaintiff's wife had signed the deed for the sole purpose of clearing the title of her interest, which was consistent with an intent on the part of her husband to likewise sign the deed. *Id.* at 420. Additionally, the court in *Ames* relied upon the fact that the parties had acted for 12 years as if their individual interests in the property had been conveyed to the grantee. *Id.* at 421. Based upon these facts, the court concluded both the wife and non-signing husband had intended to convey their interest to the grantee and that the plaintiff's failure to sign the deed was a result of a mutual mistake. *Id.* The Court thus held that the deed should be reformed to add the signature of the non-signing spouse. *Id.* The same result should occur here, particularly where the Beckers and the Lawsons acted for approximately 20 years as if the Lawsons had a valid easement extending to the Maquoketa River accessible on foot or by vehicle.

Likewise, in the case of *Lane v. Spriggs*, an instrument was properly reformed to correct a deficient signature on a deed to one of four parcels granted to a decedent's heirs due to an "inadvertent clerical error." *Lane v. Spriggs*, 71 S.W.3d 286 (Tenn. Ct. App. 2001). In *Lane*, the deed at issue was notarized, but not actually signed by the grantor. *Id.* at p. 287-88. This is analogous to the present case, where the intended grantor's authorized agent (Mary Becker) signed the Easement Agreement on her husband's behalf, but incorrectly referenced her own trust when doing so. Rather than finding the deed technically defective and void for want of a proper signature, the court in *Lane* rightfully reformed the deed to reflect the true intent of the grantor notwithstanding the technical defect in the instrument itself. *Id.* at 290 – 91.

Another excellent example can be found in the case of *Sound Around v. Hialeah Last Mile Fund VII LLC*, 2023 WL 122655 (S.D. Fla. January 6, 2023). In that case, the court was required to determine whether a party mistakenly omitted from a real estate purchase agreement should be added through reformation as an "intended party" to the agreement. *Id.* at *1. In answering the question affirmatively, the court rightfully distinguished between "adding a non-party" to an agreement versus "remediat[ing] the mistaken omission of a purportedly intended party" to the agreement. *Id*. at *5. ("[T]he question before this Court: whether an intended party may be bound by the terms of an instrument that it mistakenly was not party to. The answer is yes."). As in the *Hialeah* case, this Court should also answer this question in the affirmative for the same reasons articulated by the court

in that case. In the case presently before the Court, the district court incorrectly held otherwise and granted summary judgment to the Finks on the Lawsons' request for reformation.

Larry and Mary Becker undeniably intended to grant an easement to the Lawsons. The district court erred in refusing to reform the easement agreement to reflect the true intentions of the parties in the expression of the agreement. *See Nichols v. City of Evansdale*, 687 N.W.2d 562 (Iowa 2004) ("When the mistake is in the expression of the contract, the proper remedy is reformation.") (emphasis added). In this instance, it is of no consequence whether Mary Becker signed the easement agreement in her individual capacity, in her capacity as a trustee or the Mary Becker Trust, or in her capacity as co-trustee of the Larry Becker Trust. The point is, she was legally authorized to convey the easement to the Lawsons notwithstanding her mistake in the expression of the contract. *Id.* Because the record evidence demonstrates Mary Becker was a legally authorized agent and appropriate signatory to the easement agreement in either instance, this Honorable Court has repeatedly confirmed reformation is the appropriate remedy in such situations involving a mere mistake in the expression of the contract. *Id.; see also*, *Midstates Bank, N.A. v. LBR Enterprises, LLC*, 964 N.W.2d 555 (Iowa Ct. App. 2021) (reforming deed to reflect true intent of the parties to real estate transaction where scrivener's error failed to reflect the parties' true intentions).

Because equity regards as done that which ought to be done, and in light of the compelling circumstances involved here, this Court should exercise its equitable powers to reform the parties' Easement Agreement to reflect the true intentions of the parties.

II. **The Trial Court Erred by Declining to Apply the "Control Test" When Evaluating the Lawsons' Easement by Implication Claim.**

A. Reply Argument

In their Brief, the Finks contend the district court's *sua sponte* "merger theory" somehow operates to extinguish an easement which had yet to be granted to the Lawsons during the 45-day period during which the subject parcels were owned by the Beckers' separate trusts. (Finks' Appellate Brief at p. 21). It goes without saying that the easement ultimately granted to the Lawsons cannot be somehow "extinguished" through the district court's "merger theory" before the written easement was even granted to the Lawsons. The Finks' meager attempt to defend the district court's indefensible logic on this topic is striking for its conspicuous failure to grapple with this rudimentary flaw in the district court's reasoning.

The Finks' sole effort to shore up the district court's reasoning is to offer up the *Dabrowski* case, an Arizona case which stands for the unremarkable proposition that easements may be extinguished by merger when adjacent lots are owned by similar, but not identical parties. (Finks' Appellate Brief at p. 21) (citing *Dabrowski v. Bartlett*, 442 P.3d 811 (Ariz. Ct. App. 2019)). However, nowhere in *Dabrowski* or the rest of the Finks' brief is there any mention of the fatal flaw in the district court's reasoning

concerning the temporal misalignment at issue here. Simply put, an easement cannot be "extinguished" through a "merger theory" before the easement itself comes into existence.

The remainder of the Finks' arguments are likewise unavailing when viewed against the backdrop of the points made in the Lawsons' initial Appellate Brief. For the sake of brevity, those points will not be reproduced again here on reply. Instead, the Lawsons simply refer the Court to the points contained in their initial Appellate Brief.

III. The Trial Court Erred in Granting Summary Judgment to the Finks on the "Hostility" Element of the Lawsons' Traditional Prescriptive Easement Claim.

A. Reply to Finks' Preservation of Error Argument

The Lawsons preserved error by filing a timely resistance to the Finks' motion for summary judgment. ([D0041], Lawsons' Resistance to Motion for Partial Summary Judgment 09/30/2022; [D0042], Lawsons' Statement of Disputed Material Facts in Support of Resistance to Motion for Summary Judgment 09/30/2022; [D0043], Brief in Support of Lawsons' Resistance to Motion for Summary Judgment 09/30/2022; [D0058], Lawsons' Amended and Substituted Brief in Support of Resistance to Motion for Summary Judgment 11/11/2022; [D0059] Lawsons' Supplemental Statement of Disputed Material Facts in Support of Resistance to Motion for Summary Judgment 11/11/2022). The Lawsons further preserved error by filing a timely resistance to the Finks' supplemental motion for summary judgment. ([D0078], Lawsons' Brief in Resistance to Finks'

Supplemental Motion for Partial Summary Judgment 02/28/2023). Following the trial court's issuance of its summary judgment ruling, the Lawsons further preserved error by filing a timely motion to amend and enlarge the trial court's ruling. ([D0084], Motion to Amend and Enlarge Ruling on Finks' Motion for Partial Summary Judgment 05/23/2023). Importantly, the Lawsons further preserved error by requesting the trial court to revisit its prior summary judgment rulings during closing arguments made at the conclusion of the bench trial. (Trial Transcript at pp. 519 – 526). Specifically, the Lawsons directed the trial court's attention to the cases previously cited on summary judgment concerning the "hostility" element which served as the focus of the district court's erroneous decision to grant partial summary judgment to the Finks. (Trial Transcript at pp. 519 – 526). The Lawsons appropriately preserved this issue for appellate review.

B. Reply Argument

In their Brief, the Finks once again resort to deception and misdirection in attempting to convince this Court the Lawsons' use of the easement path was somehow "permissive" in nature. For starters, they cite to an irrelevant portion of the transcript where the Lawsons testified about having special permission from the Beckers to use their separate blacktop "access road" to reach the Maquoketa River. (Finks' Appellate Brief at p. 26). As was correctly observed by the trial court, the Beckers' separate blacktop "access road" was "different from the path"

at issue in this case. ([D0355], Judgment Decree dated 09/26/2023, Findings of Fact at ¶ 2, p. 1). Indeed, the trial court's findings of fact contain no other evidence of any "special" extracontractual permission pertaining to the path at issue in this case other than that flowing from the written easement agreement and the Beckers' pre-sale representations to the Lawsons concerning the location of the easement to be granted with their purchase of the property. This Court should reject the Finks' desperate efforts to portray the facts concerning "permission" differently from those set forth by the trial court in its post-trial ruling. *Id.*

Next, the Finks contend the Lawsons used the pre-existing path to the river without a good faith claim of right or color of title. (Finks' Appellate Brief at p. 26). This is not so. Instead, the district court specifically found that: "Unbeknownst to the Lawsons, the easement route described in the Easement and Agreement was not the path running from the garage to Lake Delhi." ([D0355], Trial Court's Judgment Decree issued 09/26/2023 at p. 3, ¶ 4). The Lawsons undeniably acted under **color of title** for more than 20 years when utilizing the pre-existing path to the Maquoketa River that was ostensibly passed to them with the purchase of their home in 2002. ([D0042], Lawsons' Statement of Disputed Material Facts at ¶¶ 2, 31 09/30/2022). The Lawsons' utilization of the pre-existing path under a claim of right and color of title should have precluded the

district court from granting summary judgment on the Lawsons' traditional prescriptive easement claim.

The district court's grant of summary judgment on the "hostility" element of the Lawsons' prescriptive easement claim was contrary to this Court's holding in *Grosvenor v. Olson*:

> Defendant argues plaintiff failed to prove a good faith claim of right or color of title. **Color of title is that which in appearance is title but in reality is no title**. A void deed taken in good faith affords sufficient color of title to sustain the plea and claim of adverse possession by one who, relying thereon has taken and held the possession for the required length of time.

Grosvenor v. Olson, 199 N.W.2d 50, 52 (Iowa 1972) (emphasis added); *see also, Franklin v. Johnston,* No. 15-2047, 2017 WL 1086205, at *9 (Iowa Ct. App. Mar. 22, 2017) (unpublished decision) ("A claim for a prescriptive easement is similar to adverse possession, except an easement concerns the use of the property and adverse possession concerns the acquisition of title to the property.").

Contrary to the district court's finding on summary judgment, hostility "does not imply ill-will but instead refers to declarations made or acts done that reveal a claim of exclusive right to the land." *Id.* The requirements of hostility and claim of right are closely related. *Brede v. Koop*, 706 N.W.2d 824 (Iowa 2005). Hostility refers to declarations or acts that show the declarant or actor claims a right to use

the land. *Id*. "Similarly, a claim of right requires evidence showing an easement is claimed as a right." *Id*.

Here, the Lawsons undeniably maintained and improved the path to the Maquoketa River for approximately twenty years without seeking the Beckers' permission to do so. This is evidence of the obvious: The Lawsons had no need to seek such permission from the Beckers during that time frame because they were undeniably acting under color of title and/or a claim of right to do so pursuant to the Easement Agreement which had been granted to them by the Beckers.

The facts made available to the district court on summary judgment should have precluded dismissal of the Lawsons' traditional prescriptive easement claim on summary judgment. ([D0042], Lawsons' Statement of Disputed Material Facts at ¶¶ 2, 09/30/2022). The district court wrongfully granted summary judgment on the Lawsons' traditional prescriptive easement claim. Thus, this Court should reverse the district court and remand this case for further proceedings accordingly.

IV. **The Trial Court Erred by Failing to Follow Binding Precedential Decisions When Evaluating the Lawsons' Modified Prescriptive Easement Claim.**

A. Reply Argument

In their Brief, the Finks contend the Lawsons' expenditure of money and labor in the maintenance and improvement of the path to the Maquoketa River were insufficient to rise to the level of being "significant" under this Court's prior

decisions. Because the term "significant" is inherently subjective, and because this Court's jurisprudence on this topic offers no bright line test for expenditures of money and labor deemed to be "significant" under the law, the cases cited by the parties tend to speak for themselves. Thus, for the sake of brevity, no further discussion or analysis of those cases is necessary here.

V. **The Trial Court Erred in Granting Summary Judgment to the Finks on the "Definite and Certain" Element of the Lawsons' Easement by Acquiescence Claim.**

A. Reply Argument

In their Brief, the Finks contend the Lawsons have failed to address the threshold question of whether "easements can be created by acquiescence." (Finks' Appellate Brief at p. 35). But that is not the threshold question at all. Instead, as is set forth in Brief Point I above, the easement at issue was "created" when the parties entered into the written easement agreement at issue in this case. However, in terms of the location of the easement, it the Beckers' acquiescence (and express representations) concerning the location of the easement to be conveyed which justifies the reformation of the easement agreement to bring it in conformity with the Lawsons' longstanding use of the easement path shown to them by the Beckers when the Lawsons purchased the property.

The factual circumstances involved here demonstrate the Lawsons have consistently treated the pre-existing access path as the location of the easement

referenced in the attached Easement and Agreement ever since they closed on their house more than twenty (20) years ago. ([D0042], Lawsons' Statement of Disputed Material Facts at ¶¶ 13 – 14).

As is established above and in the Lawsons' initial Appellate Brief, the trial court improperly dismissed the Lawsons' easement by acquiescence claim on summary judgment. Therefore, this Court should reverse the trial court and remand for further proceedings accordingly.

VI. The Trial Court Erred in Setting the Equitable Quiet Title Aspect of the Case for Trial Before the Finks' Jury Claims for Money Damages.

A. Reply to Finks' Standard and Scope of Review Statement

Actions to quiet title are equity proceedings. *Brede v. Koop*, 706 N.W.2d 824 (Iowa 2005). Accordingly, this Court's review of the district court's ruling is *de novo*. IOWA R. APP. P. 6.907. In a *de novo* review, the appellate court examines the facts as well as the law and decides the issues anew. *Id.* The district court's factual findings are accorded weight, but are not binding. *Id.* at 177-78.

B. Reply Argument

In their Brief, the Finks essentially contend this Court's holding in *Morningstar v. Myers* may be disregarded such that the trial court's findings of fact and conclusions of law may operate to deprive the Lawsons of the right to have a jury of their peers weigh the evidence in determining whether the Lawsons somehow "trespassed" on their property, invaded their privacy, or otherwise

"converted" their real estate for their own use. *Morningstar*, 255 N.W.2d 159. In a rare moment of candor, the Finks acknowledge: "[N]ow that the District Court declared the Finks the free-and-clear title holders of the land, they can recover for the Lawsons' trespass, conversion, and invasion of privacy on that land." (Finks' Appellate Brief at p. 43). However, two sentences later, the Finks dubiously contend "[t]he Lawsons' right to a jury trial is alive and well," (presumably on the sole topic of the magnitude of damages to be assessed against them by a jury estopped from considering the underlying liability aspect of the case at all). This is precisely the type of unconstitutional mischief this Court sought to avoid when instructing trial courts to set bifurcated tort claims for trial first, with the related quiet title claims being tried to the court second. *Morningstar v. Myers*, 255 N.W.2d 159 (Iowa 1977) (bifurcation of equitable quiet title action deemed appropriate, but reversing trial court for its failure to set trial of the jury claims for money damages <u>before</u> the trial of the equitable quiet title action) ("Not only will that probably dispose of the whole case, but the opposite result effectively takes away Morningstar's right to trial by jury" on the related jury claims for money damages).

The Finks led the trial court astray in convincing it to conduct a bench trial on their quiet title claim <u>before</u> their jury claim for money damages has been

decided contrary to this Court's directives in *Morningstar*. *Id.* Thus, this Court should reverse the trial court and remand for further proceedings accordingly.

CONCLUSION

For all of these reasons, this Court should reverse the trial court and remand for further proceedings accordingly.

Respectfully submitted,

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REQUEST FOR ORAL SUBMISSION

The Lawsons request to be heard in oral argument in connection with the submission of this appeal.

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CERTIFICATE OF COMPLIANCE

This Brief complies with the type-volume limitation of IOWA R. APP. P. 6.903(1)(i)(1) because this brief contains 4,496 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 14 point, Times New Roman font.

By: */s/ Matthew J. Haindfield*
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CERTIFICATE OF SERVICE

The undersigned certifies a copy of the foregoing document was filed on the on the 23rd day of May, 2024 via the Iowa Electronic Document Management System (EDMS) with service to be accomplished upon the following persons via EDMS:

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