IN THE SUPREME COURT OF IOWA

NO. 20-0837

SIOUX CITY TRUCK SALES, INC.,
Plaintiff-Appellant,

vs.

IOWA DEPARTMENT OF TRANSPORTATION
and PETERBILT MOTORS COMPANY,
Defendants-Appellees,

and

ALL STATE PETERBILT OF CLEAR LAKE,
Intervenor.

APPEAL FROM THE IOWA DISTRICT COURT
FOR POLK COUNTY
THE HONORABLE WILLIAM P. KELLY, JUDGE

APPELLEE IOWA DEPARTMENT OFTRANSPORTATION'S APPLICATION FOR FURTHER REVIEW

(Court of Appeals Decision filed June 16, 2021)

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QUESTION PRESENTED FOR REVIEW

In assessing whether "good cause" exists under the guidelines set forth in Iowa Code section 322A.16 to permit an additional franchise for the same line-make, should the Iowa Department of Transportation consider the entire geographical area in which Sioux City Truck Sales, Inc. (SCTS) had investments and operations, including locations in Nebraska, even though this would include areas of responsibility outside the twenty-three-county region proposed for the additional Allstate Peterbilt of Clear Lake (Allstate) franchise, or should "that community" as used in Iowa Code section 322A.16 be deemed to mean the geographical area where there will be an actual dual assignment of franchisees which in the context of this case was the twenty-three-county Clear Lake region that SCTS and Allstate would share?

In other words, should "that community" for making the assessment be the geographical area where a franchiser is seeking to appoint a new dealer (in this case the twenty-three-county Clear Lake region) instead of SCTS locations elsewhere throughout Iowa and Nebraska which do not overlap within Allstate's proposed franchise region?

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STATEMENT SUPPORTING FURTHER REVIEW

The Court of Appeals, as explained below, has decided an important question of law that has not been, but should be, settled by the Supreme Court. Plus, given the ramifications on commerce, trade and consumer protection in respect to Iowa's motor vehicle market, this case presents a matter of broad public importance the Supreme Court should ultimately determine. The Court of Appeals rendered a rigid, impractical interpretation in conflict with the legislature's underlying purpose in enacting Iowa Code chapter 322A, and in conflict with the principles of statutory interpretation previously applied to that chapter in *Craig Foster Ford v. Iowa Dept. of Transp.*, 562 N.W.2d 618 (Iowa 1997).

Peterbilt Motors Company ("Peterbilt"), in accordance with provisions in Iowa Code chapter 322A, sought permission to add Allstate Peterbilt of Clear Lake ("Allstate") as a new dealer to serve the twenty-three counties of the proposed Clear Lake region. Sioux City Truck Sales, Inc. ("SCTS"), an existing franchise holder, objected to the proposed addition of Allstate. Under the statutory process, this meant a hearing before an Administrative Law Judge (ALJ) was triggered. The "guidelines" for determining whether "good cause" exists to establish an additional franchise are found in Iowa Code section 322A.16. An ALJ found those guidelines had been met; DOT

also found those guidelines had been met ; and Judge Kelly in the district court found the guidelines had been met as well.[1] All three decisionmakers determined Peterbilt could proceed with its new Allstate dealership to serve customers in the defined Clear Lake region. *See generally* Court of Appeals decision, pp. 4-6; *see also* App. pp. 1365-1389; 1545-1590. And, in fact, Allstate has done just that as it subsequently opened its location in August of 2019.

The Court of Appeals, however, determined all three prior decisionmakers erred. The sole reason for this conclusion rested upon the Court of Appeals' determination the prior decisionmakers had used the wrong definition of "community" in assessing whether the new Clear Lake dealership could be established. Under its reasoning, the Court of Appeals deemed the term "community" as defined in Iowa Code section 322A.1 to be the measure for gauging when a new dealership could be added within an existing franchisee's area of responsibility. What this meant, practically

[1]Because this is DOT's application, DOT has included as an attachment, pursuant to Iowa R. App. P. 6.1103(1)(c)(6), its final agency decision signed by its then director, Mark Lowe. The decision sets forth DOT's position in detail, including the reason DOT believes the pertinent area for assessment was the twenty-three-county region SCTS and Allstate would share as franchisees under Peterbilt's dual assignment, rather than areas outside the zone where the dual assignment would occur. *See also* Amended Appendix ("App.") pp. 1379-1389.

speaking, was the determination of whether a dealership could be added for the proposed twenty-three-county franchise area surrounding Clear Lake-Mason City must be made *not* by looking at "that community" of twenty-three counties, but rather by comparing it to SCTS's vast area under its separate franchise which consisted of a seventy-one-countywide Iowa region plus extensive areas of responsibility beyond Iowa's borders in Lincoln and Norfolk, Nebraska. *See, e.g.*, Court of Appeals decision, p. 4; *see also* App. pp. 1386-1387. This would involve the analysis with large swaths of areas which would not be within the twenty-three counties SCTS and Allstate were proposed by Peterbilt to share as franchisees.

This brings us to why this Court should grant further review of this matter. While the decision of the Court of Appeals states it was only applying the statute as written (which at first blush is inarguably a laudable goal), in fact, the decision of the Court of Appeals writes out of the statute book that portion of Iowa Code section 322A.1 which states its statutorily-defined terms are controlling "unless the context otherwise requires." In this case "the context otherwise requires."

SCTS had only a "non-exclusive" right to operate as a franchisee within the area encompassed by its franchise. App. p. 1380-1381. The granting of an additional dealer within this zone does nothing to alter SCTS's existing

franchise agreement. In assessing whether the grant of a new dealership within the twenty-three-county area of the Clear Lake zone is to be approved, one would logically look at the impact the new dealership would have in the area where the dual assignment is proposed.

Failing to properly focus the inquiry within the context of the region being considered for the establishment of a new dealership franchise can result in harm to free trade and consumers. DOT is called upon in applying Iowa Code chapter 322A to determine whether consumers have adequate access to dealer services in a defined community. *See, e.g, Craig Foster Ford, Inc. v. Iowa Dept. of Transp.*, 562 N.W.2d 618, 621-622 (Iowa 1997). The guidelines to be applied in determining whether "good cause" exists to add a new motor vehicle dealer franchise are understandably focused upon "that community" where the new dealership will be situated and enjoy franchise rights.

The legislature was not concerned with locations where there will be no dual assignment when it formulated the section 322A.16 guidelines. Only the twenty-three-county region proposed for the Allstate franchise will overlap with SCTS's existing area in determining whether a new franchise should be permitted. "That community" under Iowa Code section 322A.16

is the obvious area of concern. Otherwise, an apples versus oranges comparison results as noted by DOT's director in his decision:

> Suffice it to say that consideration of the good cause factors, which include comparing the amount of business transacted by the franchisees, the necessary investment to be made, the permanency of the investment in that community, can only be meaningful if the community is defined in the same way for both entities, as SCTS's entire AOR [area of responsibility]/community is not subject to dual assignment. Thus, the only logical community to be used for this analysis is the area that will be dual assigned, or the area that both will share.

App. p. 1387.

In the District Court Ruling, which is included as an attachment to this Application, Judge Kelly concurred with the DOT's interpretation after engaging in his own lengthy and detailed analysis of the rules of statutory construction, the term "community," and the modifier "that" as used in Iowa Code section 322A.16. Judge Kelly went on to conclude "[i]n sum, as applied to this case, 'that community' for purposes of evaluating the statutory good cause factors means the 'Clear Lake area,' or the 23 Iowa county portion of SCTS' nonexclusive AOR, and not the entire 71 Iowa county portion of Petitioner's AOR referenced under the Dealer Agreement." App. p. 1571.

DOT's ability to ensure the public interest is protected through adequate dealership products and services is hampered by this decision from the Court of Appeals. The decision, too, runs contrary to prior precedent

recognizing impractical literal interpretations of chapter 322A are to be avoided. *See, e.g., Craig Foster Ford*, 562 N.W.2d at 624. Given the need to have certainty concerning the definition of "that community" when applying section 322A.16, this Court should take this matter up for review. That three prior decisionmakers (the ALJ, DOT's director and Judge Kelly) all reached a determination contrary to that of the Court of Appeals is itself a red flag tipping the scale in favor of Iowa's highest court extending review to this matter. Further review should be granted in this instance to give DOT the guidance it needs to apply chapter 322A to protect the public through DOT's oversight of motor vehicle dealership franchises.

DOT'S BRIEF IN SUPPORT OF ITS APPLICATION

THE DECISION OF THE IOWA COURT OF APPEALS FAILED TO PROPERLY ANALYZE PETERBILT'S APPLICATION WITHIN "CONTEXT" AS REQUIRED BY IOWA CODE SECTION 322A.1. THE TERM "COMMUNITY" MUST MEAN THE SAME FOR SCTS AND ALLSTATE BECAUSE FOR PURPOSES OF APPLYING IOWA CODE SECTION 322A.16 ONLY THE AREA WHICH WILL BE SUBJECT TO THE DUAL ASSIGNMENT AND WHICH BY DEFINITION WILL BE THE ONLY AREA SCTS AND ALLSTATE WILL SHARE IS MEANINGFUL FOR PURPOSES OF ASSESSING THE STATUTE'S RELEVANT CRITERIA.

A. PROCEDURAL AND FACTUAL BACKGROUND.

The regulated nature of modern-day motor vehicle dealer franchising has resulted in Iowa's adoption of a statutory regime governing the proposed

location for appointment of an additional dealer-franchisee. This process is superintended by the Iowa Department of Transportation (DOT). *See generally* Iowa Code ch. 322A (2019); *see also* Iowa Code § 322A.6 (franchiser seeking to enter into a franchise for additional representation of the same line-make "in that community" must file an application for permission to do so with DOT); Iowa Code § 322A.17 (DOT renders the final agency decision regarding whether an additional franchise may be entered into).

This matter came to the Court of Appeals through the administrative process described on page 6 of the Court of Appeals decision. *See also* App. pp. 1546-1557. Peterbilt Motors Company ("Peterbilt") in 2016 notified Sioux City Truck Sales, Inc. ("SCTS") it was "dual assigning" a segment of SCTS's *non-exclusive* territory. SCTS had a franchise agreement with Peterbilt which spanned a seventy-one-countywide area in Iowa, as well as areas as far west as Nebraska. The agreement, however, was "non-exclusive." Peterbilt was authorized within its sole discretion to appoint an additional dealer (make a dual assignment) within the geographical area encompassed by its agreement with SCTS. *See* Court of Appeals decision, pp. 4-5; *see also* App. p. 1573.

Peterbilt had determined the region around Clear Lake, Iowa, to be an area ripe for growth.[2] It was thought the Clear Lake region had "high sales potential." *See* Court of Appeals decision, p. 4. The Clear Lake area was within the geographical area of the franchise agreement Peterbilt had with SCTS. Peterbilt, as far back as 2014, sought to have SCTS open a full-service dealership in either Clear Lake or Mason City, but SCTS declined. *See*, *e.g.*, Court of Appeals decision, pp. 4-6. Therefore, as permitted under its dealership agreement, Peterbilt defined a new franchise area consisting of twenty-three counties in the Clear Lake region and proposed the appointment of a new dealer. This was a permitted "dual assignment" under which Peterbilt would have two dealers within SCTS's "non-exclusive" zone of responsibility: SCTS and Allstate Peterbilt of Clear Lake ("Allstate"). Allstate would serve the twenty-three-countywide area of Peterbilt's Clear Lake region. The Court of Appeals, as referenced on page 5 of its opinion, noted the appointment of Allstate as an additional dealer was within Peterbilt's "sole discretion" and Peterbilt was making the appointment

[2]Clear Lake is situated near Interstate 35 with much truck traffic, and it was over 100 miles away from SCTS's closest Peterbilt dealership. This distance posed problems in this region for Peterbilt customers. After all, warranty work on Peterbilt trucks can only generally be performed at authorized Peterbilt dealerships, and authorized service upon the proprietary engines used in Peterbilt rigs can only be done at Peterbilt dealers as well. App. pp. 1366; 1391-1392; 1452; 1547.

because of its "need to increase representation within the non-exclusive area, specifically near Clear Lake." Nonetheless, SCTS objected to the proposed Allstate franchise.[3]

B. ARGUMENT.

DOT agrees statutes should be applied as written. DOT, however, respectfully submits the Court of Appeals failed to apply the statutes in chapter 322A as written. Iowa Code section 322A.1 defined "community" as meaning "the franchisee's area of responsibility as stipulated in the franchise." But the legislature did not proclaim its definition to be immutable. Instead, the legislature prefaced its litany of definitions with these words "unless the context otherwise requires."

[3]SCTS disingenuously suggested it, too, had been eyeing the Clear Lake region. But its enthusiasm was tempered in relation to Peterbilt's desire for a "full-service" dealership. Instead, SCTS proposed a "parts-only store" midway between Mason City and Clear Lake. *See* Court of Appeals decision, p. 5. The inescapable conclusion is SCTS wanted to suggest it had just enough interest to ward off establishment of the new dealership while never committing itself to establishing the sort of full-service dealership that would allow Peterbilt to fully exploit customer potential in the Clear Lake area. SCTS's reluctance to dive into the Clear Lake market is what caused Peterbilt to decide it needed to pursue expansion in the Clear Lake area through a dealer other than SCTS. And this decision was entirely within Peterbilt's purview since, though SCTS had the right to operate in this region as a franchisee, its right was "non-exclusive." *See* Court of Appeals decision, pp. 5-6.

Thus, the question presented is, when an additional dealer franchise is applied for within an area where an existing franchisee, such as SCTS, already holds a "non-exclusive" right to operate, does application of the "good cause" guidelines for ascertaining whether the new franchise will be allowed mean "that community" in section 322A.16 must include analysis of the entire area of responsibility of the existing franchisee (SCTS) regardless of whether it overlaps with the area of the additional proposed franchise, or *within the context of this case* where the dual assignment means SCTS and Allstate will share only twenty-three counties, does "that community" mean only the area where SCTS and Allstate will share the dual assignment? It seems obvious it is the latter consistent with the determinations made by the ALJ, DOT's director and the district court. App. pp. 1365-1389; 1545-1590.

What is at issue when an additional franchise is applied for is whether the franchise for "that community" is warranted consistent with the "good cause" guidelines in Iowa Code section 322A.16. That inquiry is necessarily limited to the area both franchisees will share. For example, Iowa Code section 322A.4 talks in terms of disallowing the grant of any additional franchise "in any community in which the same line-make is then represented" unless the franchiser has first established at a hearing good cause for the additional dealership. This language indicates SCTS's protest,

therefore, must be limited to a consideration of the area where it will share the same line-make with Allstate. That area is the twenty-three-county territory of the proposed Allstate Clear Lake region. The analysis should have nothing to do with SCTS's operations, for example, in Nebraska where SCTS and Allstate will not share an area. Why would DOT take up issues in areas outside the zone where the dual assignment will occur? The language in section 322A.4 strongly suggests the geographical focus is confined to the shared region in which the same line-make is represented by an additional franchisee.

Similarly, the language of Iowa Code section 322A.16 indicates "that community" means the area where the proposed additional franchise will share operations with an existing franchisee. For instance, section 322A.16(1) talks about extending consideration to the amount of "business transacted by other franchisees of the same line-make in that community." Once again, the relevant consideration as evidenced by the plain statutory text is the area to be dual assigned, meaning the area both SCTS and Allstate would share. Only in that region, for instance, would there be "other franchisees of the same line-make in that community." Therefore, the decision of the Court of Appeals, which necessarily involves DOT in taking up for consideration elements in areas where SCTS and Allstate are not

subject to dual assignment, is erroneous. Any logical reading of the statute makes this clear.

Focusing on the entire area encompassed within SCTS's franchise agreement *without taking into context* the location and nature of the proposed new dealership can result in the section 322A.16 "good cause" guidelines being misapplied. SCTS, for example, conceded the Clear Lake area was not adequately served for parts and service despite its investments in other portions of its area of responsibility. App. p. 1387, n. 1. Yet, the position of SCTS, as adopted by the Court of Appeals, results in DOT being called upon to measure factors such as investments and services rendered by SCTS in far-flung locales in Nebraska in applying the section 322A.16 guidelines to a proposed dealership franchise limited to only the twenty-three-county region surrounding Clear Lake, Iowa.

The district court understandably noted the "community" section 322A.16 seeks to protect are the citizens in the Clear Lake area where the new dealer would be situated. App. p. 1573. The statutory scheme in chapter 322A did not contemplate an exercise in futility where factors unrelated to the locale where the new dealer would be situated would be considered. Judge Kelly properly noted:

> It is clear that the ALJ took into consideration the quantity of sales to the Clear Lake area by other franchisees in order to

> determine that there is a need for a dealership in the Clear Lake area because SCTS has not met the community's needs.

App. p. 1577.

The record demonstrated the Clear Lake region was a potentially vibrant market for Peterbilt's products. It also demonstrated SCTS, with its closest dealership more than 100 miles away, did not desire to open a full-service dealership as Peterbilt had beseeched it to do. Nonetheless, despite the clear market potential for the Clear Lake region, and notwithstanding the "non-exclusive" nature of SCTS's franchise, the Court of Appeals would have DOT consider investments made by SCTS in Nebraska and other regions where a dual assignment *is not* being proposed. The investments of SCTS in Nebraska and elsewhere in Iowa, but outside the area of the proposed Allstate franchise for the Clear Lake region, would ironically be required for DOT to consider in determining whether an additional franchise should be awarded in Mason City and Clear Lake where SCTS *had declined* to open an authorized Peterbilt dealership. DOT's director noted this strained interpretation:

> [W]ould lead to the illogical conclusion that service and investment in disparate areas of the AOR [area of responsibility] somehow equate to service and investment in the area in question, which contradicts SCTS's own admission that the Clear Lake area is not adequately served for parts and service despite its [SCTS's] activities and investment throughout its existing AOR.

App. p. 1387, n.1.

Moreover, by calling upon DOT to consider SCTS investments and operations outside the area of the proposed dual assignment, the scale can become weighted in favor of an existing franchisee to the detriment of free trade. This runs counter to the purpose of chapter 322A. SCTS, for instance, could proclaim an additional franchisee should be disallowed because SCTS has made substantial investments and carried on significant operations in other areas having nothing to do with the region of the proposed additional franchise. This sort of dynamic could impermissibly shift the focus in favor of areas already being served and away from the area of the proposed additional franchise (Clear Lake) which lacks any authorized Peterbilt dealer and is more than 100 miles from SCTS's closest dealership.

The interpretation of chapter 322A by the ALJ, DOT's director and the district court is consistent with the statutory language when considered in proper context. Moreover, their reasonable and logical interpretations are consistent with Iowa case law, whereas the Court of Appeals has adopted a rigid approach to chapter 322A at variance from that employed by the Iowa Supreme Court in *Craig Foster Ford v. Iowa Dept. of Transp.*, 562 N.W. 2d 618 (Iowa 1997). The *Craig Foster Ford* case involved application of the chapter 322A provisions in respect to a request to terminate a dealer franchise agreement. *Craig Foster Ford* addressed language in section 322A.2 which

barred termination of a franchise unless it could be shown "another franchise in the same line-make *will become effective* in the same community without diminution of the motor vehicle service formerly provided." (Emphasis added). Ford Motor had committed to establishing a new dealer as soon as the litigation was concluded, but Foster protested on the notion this was insufficient as it failed to satisfy the "will become effective" language in section 322A.2. *Craig Foster* Ford, 562 N.W. 2d at 624.

The Iowa Supreme Court in *Craig Foster Ford* noted the purpose of Iowa Code chapter 322A was not served by a strained, illogical and literal interpretation. Its language in that case offers guidance in this scenario as well:

> Strict adherence to the language of section 322A.2 would have required Ford to have a replacement dealer with a facility in the local community standing by for years, ready to commence operations at the moment Foster gives up the case or exhausts its litigation options.
>
> We presume that the legislature, in enacting section 322A.2, intended a just and reasonable result. Iowa Code § 4.4(3); *State v. Lewis*, 514 N.W.2d 63, 69 (Iowa 1994); *Brinegar v. Iowa Dep't of Revenue*, 437 N.W.2d 585, 586 (Iowa 1989). Because strict adherence to the common meaning of the statutory term "will" would lead to an unreasonable, impracticable and absurd result, we are compelled to search for an alternate meaning consistent with the legislature's purpose. *Holiday Inns Franchising, Inc. v. Branstad*, 537 N.W.2d 724, 728 (Iowa 1995).

562 N.W.2d at 624.

Mindful of the above, the Court of Appeals' decision in this matter crosses over into the realm of impracticability. DOT is supposed to somehow utilize its "expertise" to make an assessment of SCTS's entire area of responsibility as defined in its franchise even though it would mean "that community" as used in Iowa Code section 322A.16 becomes the total area of SCTS's franchise agreement steering the inquiry out of control and into regions throughout Nebraska and Iowa which are not within the area of the proposed additional franchise in Clear Lake (the region of twenty-three counties). It would mean the analysis would not be focused upon the area to be shared by SCTS and Allstate.

No guidance was offered by the Court of Appeals concerning how DOT is to undertake such an undefined task. In fact, at the end of its opinion, the Court of Appeals simply tossed this conundrum back into DOT's lap by stating "we opt to defer to the DOT's expertise in this field to reconsider the evidence based on SCTS's area of responsibility as defined in its franchise." Court of Appeals decision, p. 19. DOT submits its "expertise" will be sorely tried if it is supposed to render a comparison on the basis of a "community" that differs between the parties. Under the Court of Appeals rationale, the inquiry will not be confined to the area that SCTS and Allstate will share. SCTS is not limited to twenty-three counties; Allstate is. Hence, the Court

of Appeals has failed to construe chapter 322A *in context* as required by Iowa Code section 322A.1.

Under Iowa Code section 322A.16, "that community" within the context of assessing the proposed additional franchise (Allstate) logically extends only to the area where the two franchisees would share a territory. How, for instance, is DOT going to logically gauge whether the guidelines have been met in Iowa Code section 322A.16 if it has to equate service and investment in Lincoln and Norfolk, Nebraska, with service and investment in Clear Lake and Mason City? And why stop there? If the franchise SCTS was awarded included areas on west across Nebraska and through Colorado, Wyoming and into Utah, is it expected "that community" for purposes of section 322A.16 would be measured by gauging the twenty-three-county region surrounding Clear Lake, Iowa, in comparison to multiple out-of-state markets wholly disparate in nature and unrelated to the proposed location of the new dealership?

The Court of Appeals has injected into the process an unworkable construct for DOT's purposes in determining whether a new franchise may be added pursuant to chapter 322A. DOT will be forced to somehow consider factors in regions far removed from the zone where the dual assignment will occur. And those factors may very well be pertinent to only one of the

parties, in this case SCTS, since Allstate will have no franchise in Nebraska or Iowa counties beyond Allstate's proposed twenty-three-county Clear Lake territory.

Section 322A.16 was intended to require an assessment of the franchise area where the proposed new franchisee will share a territory with an existing franchisee. The dual assignment in this case has nothing to do with areas in Nebraska. Strictly applying the definitional provision from Iowa Code section 322A.1 in a literal manner without recognizing the limited nature of the shared area being proposed produces an unreasonable and unjust result inconsistent with the legislature's purposes in enacting chapter 322A. It is inconsistent as well with the principles for construing chapter 322A articulated in *Craig Foster Ford*.

The primary intent behind Iowa Code chapter 322A is to "protect the public" by ensuring requisite motor vehicle services "are continued for the benefit and safety of vehicle buyers and the public at large." *Midwest Automotive III, LLC v. Iowa Dept. of Transp.*, 646 N.W.2d 417, 423 (Iowa 2002). The decision of the Court of Appeals which employed a definition of "that community" in which, to get a new franchisee approved, requires the consideration of locales and operations wholly unrelated to the proposed franchise area is inconsistent with both the language and intent behind the

legislature's adoption of chapter 322A. Therefore, this Court should give this matter further review to ensure both sides, SCTS and Allstate, are being considered in relation to "that community" consisting of the same geographical area it is proposed they will share. Otherwise, under the approach of the Court of Appeals the ability to make a meaningful comparison is jeopardized to the prejudice of the public interest.

CONCLUSION

For the reasons urged above, as well as the reasons articulated in the decisions reached by the ALJ, DOT's director and District Court Judge Kelly, this matter should be granted further review to clarify the law concerning the scope of the "community" to be considered against the guidelines in Iowa Code section 322A.16 when an additional franchise is being proposed.

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

This Application complies with the type-volume limitation of Iowa R. App. P. 6.903(1)(g)(1) because this Application contains 3,969 words, excluding the parts of the Application exempted by Iowa R. App. p. 6.1103(4).

This Application 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 Application has been prepared in a proportionally spaced typeface using Microsoft Word 2016 in size 14 Times New Roman.

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CERTIFICATE OF FILING AND CERTIFICATE OF SERVICE

I, Michelle E. Rabe, hereby certify that on July 6, 2021, a copy of the Iowa Department of Transportation's Application for Further Review was filed electronically with the Clerk of the Iowa Supreme Court through the EDMS system, and which system further will provide access and service to the brief on that same date to:

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